

## INTERVIEW OF ROBERT A. HEFNER

by Howard P. Willens and Deanne C. Siemer

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- Willens: Robert A. Hefner has agreed to be interviewed with respect to his service in the Trust Territory as Attorney General and then subsequently in various judicial positions on the High Court of the Trust Territory and on the courts of the Commonwealth of the Northern Mariana Islands. Bob, thank you very much for making your time available to us and your hospitality in letting us visit you in your home. I have explained off the record generally what we're trying to do. Could we begin by your giving us some background information about your education and how you found your way out to Micronesia.
- Hefner: Well, I went to school primarily in California. I went to UCLA and graduated there and went to law school and graduated there. I went into private practice in San Diego County. About 1968, somehow I'd heard about Micronesia, and I just talked to my wife and said, "Well, how about doing something different?" She said, "Well, what do you mean different?" I said, "Well, you know, go out there for a couple of years." Then Attorney General Don Tindall came to the United States and interviewed me. He told me they had about 75 applicants or so for the assistant attorney general spot.
- Willens: Seventy five applicants for a single job.
- Hefner: Yes. A lot of interest at that time. So I was up in the Biltmore Hotel in Los Angeles and went home and I told my wife, "You know, I think he might pick me. We'd better get serious about this." Sure enough, he called, so we thought about it and said okay, we'll try it for two years. And that's when I went out at the end of 1968. And I stayed until March of 1971. Then I went back into private practice until 1974, when I got that first judicial appointment.
- Willens: When did you graduate from law school?
- Hefner: It was 1958.
- Willens: What kind of practice did you have in San Diego?
- Hefner: Just a general practice. Just did a little bit of everything.
- Willens: Then you went on to the Trust Territory as assistant attorney general?
- Hefner: Right. Then while there, I became Deputy Attorney General, then Attorney General.
- Willens: What kind of impressions did you have when you first reached Micronesia? I gather from what you say you'd never been out there and you didn't know much about it.
- Hefner: I guess the first thing was shock, and then adjustment. I'd never worked for a government before, and of course the Trust Territory government was really patterned after the federal government—the memos that you write and all the paperwork and everything of this sort. So it was an entirely new experience for me, and adjusting to the chain of command and all this, because I'd always been my own boss as a private practitioner, was really kind of an adjustment. But you could see right away the many, many problems, and I think I brought a new approach to it because I had experience in trusts and things of this sort. At this time they were setting up some of the Bikini trusts. And also codes—I'd helped develop some codes. One of the first assignments I got was to do the public regulations

for the Trust Territory. So it didn't take long before I jumped right in to the stream of things.

Willens: Did you become aware after you had arrived in Saipan of the political status discussions that were being talked about in a preliminary way?

Hefner: Yes. But they were really on a back burner still at that time. They weren't (I didn't feel) really a major thing in my interest at that particular time. It was sort of trying to plug all the holes in the boat before it sank type of approach.

Willens: As you know, and you've commented in another memorandum that we'll come to, it was very easy with the benefit of hindsight to criticize the Trust Territory Administration for what it was doing or not doing in the 1960s and early 1970s. What is your assessment now of the way in which the TTPI officialdom handled their responsibilities in the few years after you arrived?

Hefner: Well, I think that it was kind of a two-edged sword. I agree with Neiman Craley to the extent that there were some incompetent people out there and it was sort of a hide-away for some people. On the other hand, in the 1960s they ran the whole government on just a pittance, what we would consider a pittance. I think in 1968 the budget was something like \$17 million for this vast area. So there was great criticism of the Trust Territory government for not doing all these things, but a lot of people forget that the money for the TTPI government came from the U.S. Congress, and they weren't really interested. They had other bigger fish to fry at that particular time. So up until 1969 really it was just sort of a caretaker government, just to sort of try to keep things going as best they could. So a lot of criticism, like McHenry and some of the rest of them, was levied because of that. But it really wasn't the TTPI government's fault, because they didn't have the money anyway to do what maybe should have been done.

Willens: From time to time, members of the United States Congress would come out on trips to talk to Trust Territory officials and to visit in the districts. Do you have any recollection of personally meeting any members of Congress who came out for such a purpose?

Hefner: Yes. We always used to joke they'd come out during January-February when it got cold back in Washington, D.C. It really wasn't until (I think) 1969 when Hickel came, resulting in all of a sudden this huge massive influx of money, that you really saw anything develop from that. There were continuous Congressional delegations. I really can't say they accomplished that much until the later 1960s.

Siemer: How many people were there in the Attorney General's office at the time that you started?

Hefner: Our whole staff I think was five.

Siemer: And when you started, you were an assistant attorney general?

Hefner: Right.

Siemer: Were certain people reporting to you?

Hefner: When I first went out there, I was last man on the totem pole. But the Attorney General and I got along well. He started to give me more and more things to do, I advanced fast so to speak. In my opinion, we did the legal work that had to be done with just five people for the whole Trust Territory.

Siemer: Who were the others who were there at the time?

Hefner: There was Don Tindall, he was Attorney General. And there was Bob Bowles, who was an

Assistant Attorney General. And golly, I can't remember. I don't think I can remember the names of the fellow who had the lawsuit on the income tax. I can't remember his name now.

Willens: Were there any Micronesian lawyers on the staff?

Hefner: No. But when I was Attorney General, the first ones started coming out. Eddie Pangelinan and another lawyer named Nakamura. We had slots for them, and we tried to get them going, and we did.

Willens: One of the recurrent criticisms from the Micronesians during this period of time was that the Trust Territory government was not advancing Micronesians to the extent that they (the Micronesians) thought their abilities entitled them and that there was a dual wage system. Did you have any experience or judgment with respect to these issues?

Hefner: Oh, yes. I was intimately involved with that because there were actually three classifications of wages. There was one for Americans, one for people like the Australians, and one for the Micronesians. I guess it's difficult to say now, but it was just a very accepted fact that that's what it was. When I came there, there were some Micronesians in the government. When the renaissance (if I can use that term) came about when Hickel came in and the influx of money, there were several directives; and one was to get more Micronesians into government, and there was a real push at that time. Up until 1968, there weren't that many quite frankly. But there was an advancement at that time. I would say also you have a double-edged sword here again. Number one, there wasn't the money back in the 1960s and number two, there were very few Micronesians who'd been educated. It was a time when they were starting to go back to college. So there weren't that many at that time.

Willens: The Congress of Micronesia was formed in 1965, and by the time you arrived had three or four years of experience. What was your assessment of it as you became familiar with the Congress of Micronesia?

Hefner: That was one of the most interesting aspects of working in the Attorney General's office, because you could see the legislative branch, the Congress of Micronesia, starting to flex its muscles. By 1968, 1969 they had a lot of energetic, vocal and outstanding people who took on the Executive Branch of the Trust Territory government. When I was there, I said, "Well, boy, we're going to put our backs up on this." But looking back, you can say, "Well by golly, you know, that was their way of making their push." I remember going to legislative hearings on a certain bill and all of a sudden someone would say, "Well, how long are you going to be a colonialist here?" and things of this sort. And I was sort of taken aback and I said I don't think I'm a colonialist. But they had obviously a different perspective on it. I look back on the Congress of Micronesia as a great experiment of teaching self-government, even though their whipping boy was the Executive Branch of the Trust Territory government.

Willens: Were there any particular issues on which the Congress of Micronesia found reason to complain about your performance either as an assistant attorney general or as Attorney General?

Hefner: Well, I'm trying to think. I know there were some bills. Like for instance, they wanted to do away with autopsies. And I said no we've got to have that. Well they said this is against our culture and everything of this sort. And I explained to them why, for instance, in a criminal case we had to have autopsies. Well, there was sort of a clash between culture and necessity for criminal law, and eventually the bill was voted down. I wish I could

remember more detail. I'm sure they did find fault with me. They had little trouble finding fault with anyone.

Willens: My sense was that the principal issues were with the allocation of funds and with the programs of the TTPI government and not really with the way in which the laws were being interpreted by the Attorney General's office.

Hefner: The big problem came just before I was there in the condemnation cases. That's when we were put in the bind which I discuss in my paper where all of a sudden (I think) the budget went from like \$17 million to \$100 million or whatever. Most of it was to go for infrastructure. At that time, the fiscal year ended I think on June 30, and the federal law was (and maybe still is) that you've got to ....

Siemer: Obligate it all.

Hefner: ... obligate that money or else you lose it. Well, boy, in the Federal Government, that's the last thing you want to do. So here we are, we're trying to get these contracts out, but you can't build a road or whatever unless you've got the land. One of the things that (I'll call it) the Hickel Administration advocated was that there would be no more condemnations. Well, there we were sitting there, well what are we supposed to do? That was the dilemma that we were in. That was a major thing. We did get a lot of heat from the Congress of Micronesia about condemnations. We tried to explain to them, but it was just a foreign concept to them, and really still is. That's the bind that we were in primarily, that I remember, in the Attorney General's office.

Siemer: Were there legislative lawyers working with the Congress of Micronesia back then?

Hefner: Yes. And almost all of them were Peace Corps, and they were rebels. I liked a lot of them, but they sure had a different slant on things than we had. They became the favorite people of the Congress of Micronesia, because they could come in on a level that was above their level at that time and could get to us and point out to us the sort of things that the Micronesians couldn't. Mike White and a lot of them, I can't remember their names now, but they were vociferous and they were steadfast in their desire to point out the errors that they saw. There was a time, as you probably well know, that they weren't going to invite the Peace Corps back because there was such animosity between the Executive Branch and the Peace Corps.

Willens: Did you hire Mike White at some point to be a member of your staff?

Hefner: No. He was counsel with the Congress of Micronesia. No, I don't think I did. As Mike turned out, I kid him to this day -- he now represents Bank of America and all these. I say, "Mike, how can you do this?" And he takes it with aplomb.

Willens: He certainly does. He's been a very valuable member of that community.

Hefner: Yes.

Willens: I did share with you the letter that Congressman Morton wrote to the President dated March 20, 1969 enclosing a four-page memorandum prepared by former Congressman Neiman Craley. I gather from what you say that you did skim it over.

Hefner: Yes.

Willens: What were Mr. Craley's responsibilities in the TTPI?

Hefner: The first time I remember I think he was a Commissioner of Administration. Of course, he was a former Congressman and been out there so he had this interest. Neiman and I became great friends. I always told him he had great staying power, because he's a

- Democrat, and whatever the Administration, he stayed on. He had great insight. I don't know if you've talked to him or not.
- Willens: Is he still alive?
- Hefner: Well, he was back in Pennsylvania, Bucks County, Pennsylvania. His wife died, but so far as I know, he's still alive.
- Willens: I see.
- Hefner: He took probably a much more liberal approach. We had a lot of discussions about this, and he changed later—sadly I guess in a way—because he really became unenamored by a lot of the Micronesians. There was a little event where they threatened his life and I told him to sleep in his bathtub one night, and all this stuff, and someone had a Thompson submachine gun after him. He got a little disillusioned I think. He really was a champion, in my opinion, of a lot of the Micronesian claims and desires. But he kind of tapered off after he got burned a little bit.
- Siemer: When was that? How long after he got there was this disillusionment that he had?
- Hefner: Oh, I think it was probably about 1977, something like that.
- Siemer: After he worked with Erwin Canham?
- Hefner: Yes, I'd say yes, about that time.
- Willens: It's interesting that you've made reference to Secretary Hickel's visit, and it is precisely the kind of high level mission that Neiman Craley recommended in his memorandum.
- Hefner: See, I didn't know about the letter Morton sent and his memo, but I think that was Hickel's visit was a direct result as well as the sudden big influx of money.
- Willens: What is your recollection of Secretary Hickel's visit? Incidentally, we're going to interview Secretary Hickel next week. But if you met him or have any recollection of the kind of impression he made on the Micronesians, that would be very helpful for us.
- Hefner: Well, he came out. I think it was a Saturday, and you know where Mt. Carmel Church is, and they had at that time an open-air sort of auditorium. It was hotter than blazes. We're sitting there in suits. He's up on the platform. He had two young advisors, Kaiser was the name of one and I can't remember the name of the other. Secretary Hickel got up on the platform, and I'm sitting next to Don Tindall, and Hickel starts talking about all the things that are going to happen in Micronesia. Two major things were equal pay for equal work and no more condemnations. And we're going to build all this infrastructure. I'm looking at Don Tindall and he's looking at me. He says, "How is that possible?" Then they had private meetings which I was not involved in with Tindall, because Tindall had filed these condemnations. He was really a scapegoat. And they were really after him.
- Siemer: He had condemned property for roads and schools and things like that?
- Hefner: Yes. I forget how many cases there were, some minor projects, but he had to file condemnation cases. It was like he was the bad guy, but he was doing nothing but his job. Now all of a sudden we're going to spend all this money but we were told not to condemn. We also knew at that time that the Micronesians that were in government had the education, but at that time we didn't know where all these Micronesians who were going to be employed were going to come from or how they could really contribute. So we really had large concerns about that. There was a major push there. And my main problem from that time, Tindall left shortly thereafter, was to try to get these massive infrastructures going and acquire this land.

- Siemer: So you were just going to have to buy it from people.
- Hefner: Well, as one example. There was this large water project down at Palau. The land office had acquired this stack, literally a stack of easements like this to run the pipeline, it would be underground. I was still Deputy Attorney General at that time. I said “We’ll go down to Palau and get these easements, explain to them that we’ve done this up in Saipan and so forth and so on.” So we had a big meeting, there must have been 100 people there. I had this stack of things. So I went through the whole thing about how it was going to benefit you, we’re going to put it underground, and the papaya trees will grow on top and you’ll never see it. One big Palauan, his name was Bowles Sechelong. At that time, he and I were mortal enemies, now we’re the best of friends.
- Willens: What’s his last name?
- Hefner: Sechelong. Bowles. He got up, big guy. He started talking in Palauan and went on and on and on and on for about 10 minutes. I asked my interpreter what he was saying, and he says we won’t sign. I won’t bore you with details, but I just got up, grabbed all these easements, and went back to Saipan. So the water project was eventually solved (it was after I came back to California) somehow, but as far as the viewpoint of the Attorney General’s office, we were being held hostage to these really exorbitant land claims and also the pressure. Boy, we got pressure from Interior. Get these contracts signed! It was just a continuous thing. We were just going bananas at the time. So that was the real concern I had.
- Willens: Who were you dealing with at Interior during that time frame? Would this be during Stanley Carpenter and Fred Radewagen?
- Hefner: No, I think they came later.
- Willens: They came in 1971 or thereabouts, I think.
- Hefner: No, I think Carpenter was later than that.
- Willens: Could be.
- Hefner: You know I wish I could tell you, Howard, but I just can’t remember enough.
- Willens: Do you remember what reaction the Micronesians had to Hickel’s appearance and what appeared to be an invitation to come to Washington to discuss political status?
- Hefner: They loved it. They ate it up. They loved it. He became an overnight hero. Because all the Micronesians saw all this money coming in here, all the infrastructure and all these things. After all these years something’s going to be done. So I think he met with great favor.
- Willens: Did the implementation of the program follow?
- Hefner: It had a bumpy road, but we did the best we could. There was a lot of water, a lot of sewer projects put in, lot of roads. Just a lot of money went into a lot of things—dispensaries, gosh, you name it, just all sorts of things went in. But it wasn’t easy. I think the money that went out really wasn’t well spent; I mean you would have gotten a lot more for the money. But logistics was a real problem, as you well know, out there. It was just a tough thing. Just to build a reservoir was a major thing. Then we’d have lawsuits with the contractors. The Truk hospital was involved in litigation on that thing. It was just one problem after another. So it wasn’t easy.
- Willens: Just a month after Secretary Hickel appeared out in Saipan, the Congress of Micronesia Commission on Future Political Status issued a report. The report recommended that the Micronesians pursue a course looking toward free association with the United States or as

- an alternative independence. Do you have any recollection either of reviewing the report or discussing it with some Micronesians?
- Hefner: Yes, I did. I think I talked with Eddie Pangelinan about it. But my viewpoint at that time (and I was pretty set on it) I said there's no way that Micronesia as an entity is going to negotiate a unified political status with the United States. There's too much fraction, there's too much separation, and I forget who was the chairman. Was it Lazarus Salii then?
- Willens: I think he was involved. Dr. Palacios was also involved.
- Hefner: And Amaraich from Truk. Until they burned down the Congress of Micronesia building, there was some semblance of unity, but those who were there really knew that that was a facade. In my opinion, it was always a facade.
- Willens: Let me explore that a little bit. You seem to have had that view shortly after you arrived. Was that based in large part on what you saw in the Marianas and their history of seeking a separate relationship with the United States?
- Hefner: No. It was clear across the board. It was based on the differences in economic development, the desire for economic development. You could see that Yap just didn't want to do much. Marianas was more of get-up and go. Palau was very vigorous, and you could see that they wanted to do a lot of things. But a lot of the Marshalls and Ponape, they just didn't. It was a jigsaw puzzle that just didn't fit together. So I think almost from the outset that I was very sure that they could never form a unified entity.
- Willens: Did you ever express those sentiments to U.S. officials who were responsible for the status negotiations?
- Hefner: Harrison Loesch became the assistant secretary at Interior to deal with the Trust Territory. He came out. We had some discussions about this. Oddly enough, you may know this about the time when he came out to address the Joint Session of Congress. He went out with Bailey Olter and the rest of them the night before and had cocktails and everything. The next morning they denied him any appearance. So Harrison got on the plane and went back to Washington, D.C. The paper that you have from me was written and sent to him to express my views on it. I've got a reply, and I've tried to find it in my files, and I guess I don't have it any more. His reply says in effect thanks for your letter, but we still think that a viable approach is a united Micronesia effort. Well, I thought well, okay, I did what I could do and that was it.
- Willens: I'm interested in your recollection that some of the other Micronesian leaders, that is leaders not from the Marianas, were beginning to recognize some of these divisive influences. Is that what you recall?
- Hefner: Yes. There were always little divisions and resentments. For instance, in the TTPI government, the Palauans, more than from any other entity really, were in these government positions. I think this rankled some of the others. Actually, the Congress of Micronesia was the vehicle in a certain way for the partition of Micronesia. Although it was a unified entity so to speak, anti-Executive Branch and Trust Territory, it also became the nucleus for the problem of dividing up the TTPI revenue, the Micronesian revenue, and that was the direct cause of the burning of the Congress of Micronesia building. That was really the first overt indication that you could see that it just wasn't going to work.
- Willens: In about 1969 the Marianas people voted affirmatively in another referendum expressing a desire to reintegrate with Guam. The Guamanians, however, voted on the same issue and voted negatively, at which point some of the Marianas leaders decided to refocus their

intention and deal directly with the United States. What was your sense at the time as to what was prompting the Marianas desire either for reintegration with Guam or some separate and permanent relationship with the United States?

Hefner: I think there were a lot of reasons. Geography. The approach to economic development—they wanted more of that. They related a lot to Guam. They could see what was happening to Guam. Quite frankly, they didn't really relate to the Palauans, the Ponapeans, the Marshallese, in business or anything of this sort. They just didn't meld together. Early on, I think by 1969, a lot of them said hey, we either go with the United States by ourselves or with Guam, because we don't want all these other problems, and we don't want to give up our revenue (and they were smart enough to realize that they were going to produce a lot more revenue than any of those other districts) and obviously they didn't want to share their money with them.

Siemer: There were a lot of family connections back and forth between Saipan and Guam and between Rota and Guam. Did you have in the Attorney General's office much contact with Carolinian problems—the Carolinians who lived in Saipan?

Hefner: No.

Siemer: Or Carolinians going back and forth to the Carolines?

Hefner: No. Not at that time. None. When you look at history, there's a real interesting history here, because a lot of people had gone to Yap during or before the War and everything of this sort, and it's an interesting genealogy chart that you could come up with on a lot of people in the Northern Mariana Islands. But just like any island people, they're very proud of their heritage, and it's a closed pool, so to speak. There are some "outsiders" but it's basically a Chamorro society in the Northern Mariana Islands, and they wanted to keep it that way.

Siemer: Were the other island districts back at that time cognizant of the fact that there was more economic development potential in Saipan and therefore they wanted to keep that as a part of Micronesia?

Hefner: Yes, I think there's no doubt about it. Palau really wasn't developing at that time. The Marshalls had one thing going for them, and that was the Kwajalein Missile Range. The rest of them really at that time, you could see that their potential compared to the Marianas just wasn't there. It didn't take anybody too astute to figure that out.

Willens: In your July 1972 paper, if that's an accurate date, you make reference to legislation enacted by the Congress of Micronesia governing foreign investment. It's a little unclear to me from the record exactly what the position of the Trust Territory Administration was with respect to letting foreign investment into the Territory as a whole or delegating to the Districts the discretion to decide on such issues.

Hefner: I drafted a rather extensive amendment, or maybe the first foreign investment act, and we went through a lot of soul-searching as to how much power should go to the districts vis-a-vis the central government. If you ask me now exactly how I argued it, I really can't tell you. But the upshot was that you pretty much keep the control in the central government, and the District governments didn't have that much power. Why, I don't know. But foreign investment at that time was desired and wanted because of the money, but boy, everybody was leery of it, very leery of it. They tried to put all these restrictions in there, and I always thought, my gosh, who'd ever want to invest here, you know. It just made it almost impossible to attract foreign investment. It didn't help that much on development at that time. It was really a struggle to get foreign investment.

- Willens: When do you think the regulatory scheme changed so as to permit foreign investment?
- Hefner: I think once the Northern Marianas decided to sort of go on its own, investors became very interested in the Northern Mariana Islands. But as we sit here, I think the only other district that has fostered foreign development is Palau. Today I wouldn't invest one dollar in the Federated States. In the Marshalls, you know, it's just a crapshoot.
- Willens: Have you been to those districts in recent years?
- Hefner: Well let's see. It's probably been four or five years now. I don't know if you've been there lately, but I'll tell you, it's scary. It's scary. In the Federated States, of course, I look at it a little bit differently, I look at the judiciaries. In the Federated States, they have Supreme Court justices, judges with no legal training. In the Marshall Islands, Amata Kabua can get rid of the judge in 30 days. And he does. He does. If you don't vote in his favor, you're gone. The saving grace, and of course as I say I look at it differently, the saving grace in the Northern Mariana Islands and Palau is that they have an independent judiciary. Now thank God for that, because if you don't have an independent judiciary, forget about it. Thank goodness those two entities do.
- Willens: What prompted you to return to California in about 1971?
- Hefner: Oh, the kids were in school. I think I was ready to go back to private practice. But you know the old saying once you get sand in your shoes it's hard to get it out. So I went back to private practice, and I kept tabs on what was going on, and then in 1974, why I found out about that vacancy on the High Court, and so I put my name in for it. That's when Rogers Morton was the Secretary of Interior. I got the appointment.
- Willens: How long did you serve on that court?
- Hefner: 1974-1979. Then I got sworn in as the Chief Judge of the Commonwealth Court.
- Willens: Who were the other judges on the Commonwealth Court at the time?
- Hefner: Herb Soll, John Moore (I think it was John), and myself. Three of us.
- Willens: During your years on the High Court, did that sort of take you away from some of the issues that you had been familiar with as Attorney General in terms of Trust Territory Administration and so forth?
- Hefner: Well, it did and it didn't. I became involved in the trust set for Bikini and Kwajalein people and things like that, and the war claims. The war claims were going on when I was in the Attorney General's office. Then of course when they started releasing money, then all the lawsuits came in about the war claims. But I think really that was the most interesting time in my life when I sat on that court. Because you heard fantastic cases, and you could see the things that were going on. I just really enjoyed it.
- Willens: You were there on the High Court during the period when the Marianas negotiations came to conclusion and the Covenant was put to the people in a plebiscite.
- Hefner: Right.
- Willens: Do you have any recollection today of what kind of issues were discussed with respect to the Covenant before the people voted?
- Hefner: I don't think I was really that close or asked to speak on the Covenant. It was the Constitution more than the Covenant. Haydn Williams and Eddie Pangelinan and the rest of them really kind of did that on their own. I talked to Neiman Craley once while it was going on, but I was really not that intimately involved with that.

- Willens: What did the American community think about the Covenant back at that time?
- Hefner: Oh, I think generally it was sort of just experiencing one stage of political development. I don't think there was, as far as I know, any animosity or any bitterness or anything of this sort. They knew eventually that the Trust Territory government was going to go, and of course there was one deadline after another. Gosh, I don't know how many deadlines we had that we were going to have it all wrapped up. I remember Rosenblatt. Remember Rosenblatt?
- Willens: Yes.
- Hefner: I think it was 1974 or 1975 he came out as Carter's appointment to the status talks. He came down to Palau. Went out on a picnic. He said, "Oh, I'm going to have this wrapped up in six months." I said, "Ambassador, I beg to differ. I don't think you're going to do that." He was a sharp, hard-driving New York lawyer. One thing that a lot of the U.S. negotiators didn't realize is that the Micronesians had been there for years and years and years and they're not used to making decisions like that. If it takes a long time, so what? The U.S. is [saying] let's get this resolved. They [the Micronesians] weren't in that big a hurry.
- Siemer: Did you meet Erwin Canham when he came out as a Plebiscite Commissioner?
- Hefner: Yes. I think he did a good job.
- Siemer: You mentioned Peter Rosenblatt not understanding the Micronesian character. How did Erwin Canham go about getting organized and getting himself an understanding of the community?
- Hefner: He relied (I think) heavily on Neiman Craley, and Neiman really helped him. I think this was a key. I think Canham was respected. Of course, he had that real appearance that you respect anyway. He and I always didn't agree on things, but I think the people there respected him. I think he did a good job.
- Siemer: Well it helped I gather that he had been a journalist and a radio commentator. He was kind of familiar with the media and able to make his own television commercials.
- Hefner: Yes. He put on a good public relations front. I think he did a good job.
- Siemer: Was his organization of the plebiscite voting methods and registration methods much different from what had gone on in the Trust Territory before that?
- Hefner: I don't recall any real differences. I really don't. I don't think there was any question of fraud or anything of this sort. It passed by such a large margin I don't think there was any problem about it.
- Siemer: Do you remember concerns at the time that the Congress of Micronesia would try to undermine the Covenant and get people to vote no?
- Hefner: I really don't remember that.
- Willens: Was there a judge named Barnett?
- Hefner: Burnett. He was the Chief Justice of the High Court when I joined the Court.
- Siemer: Who else was on the High Court at the time?
- Hefner: Okay, there was Brown from San Diego, Arvin Brown, myself, Burnett and Kelly Turner. You may have heard some stories about Kelly Turner.
- Willens: No.

- Siemer: Where was he from?
- Hefner: Well, he was from Arizona. He was a rascal, but I loved the guy. But he had a personality too brusque for Micronesians. You just can't come on too strong in Micronesia. That's just not the way—and he did. He and the Chief Justice before Burnett was Shoecraft, Bob Shoecraft. I don't know if you know him.
- Willens: Is he still alive?
- Hefner: Yes. He lives in Honolulu. I think he's still alive. I'm pretty sure he is. He and Kelly Turner had their differences, to say the least. So Kelly Turner was in Palau at the time, where I'd replaced him there, and Palau I love, you know. Well, you've always heard the federal government sending someone to Aydak, Alaska to get rid of them. Well, Shoecraft had this idea. He said I'll send him to Majuro in the Marshalls, where no judge ever sat before. That was supposedly the end of the world. He said I'll send him there and Kelly will resign. Well, Kelly didn't resign. He stayed on. Then Shoecraft left before Kelly did. So the High Court had its own problems, too. But it was kind of a fun time, too.
- Willens: Where had Chief Judge Burnett come from?
- Hefner: From Iowa.
- Willens: How did he acquire his position?
- Hefner: Shoecraft retired or resigned.
- Willens: As Attorney General.
- Hefner: No, as Chief Justice of the High Court.
- Willens: I see.
- Hefner: And I forget who was Secretary of Interior then. I was still Attorney General. I went to Truk for some reason, and I'd heard the news that Burnett had been appointed as the Chief Justice. He was sitting in the Mwar-mwar Bar, whatever it is, and I walked up to him and said, "Greg, congratulations." He said, "What for?" I said, "You're the new Chief Justice." He'd never even heard that. So he got his appointment I forget from whom it was, the Secretary of the Interior at the time. This was probably 1971.
- Siemer: Where did the High Court sit at the time?
- Hefner: Well, Saipan was headquarters, but up until probably 1968 when Furber was Chief Justice, they all were in Saipan and then they'd go out. But in 1969 we started putting judges around, and I became the first city judge in Palau. No, I was the second. Arvin Brown was there, but they moved him to some other place. So then we had three judges. So eventually there was one in Truk, one in Palau, one in Saipan and that's how one would cover areas or circuits.
- Willens: Chief Justice Burnett was the judge before whom the case was presented to enjoin the Covenant. The night before the Covenant was to be signed, Mike White on behalf of a member of the Congress of Micronesia filed a motion to enjoin my client, the Commission, from signing the document. So I had to work overnight to prepare a responsive pleading and appeared in the courthouse before Chief Justice Burnett. The courtroom was crowded and one had the sense that it was a case of some moment. Do you have any recollection of that?
- Hefner: No. I was probably in Palau. What year was that?
- Willens: February 1975.

- Hefner: Yes, I was in Palau at the time.
- Willens: One question about the status negotiations. From time to time the documents indicate that Haydn Williams or his staff briefed the TTPI officials about what was going on. Did you participate in any briefings of that kind?
- Hefner: No, because at that time I was either back in private practice or else on the High Court.
- Siemer: When did you come back from Palau to Saipan?
- Hefner: March 1974 I came to Palau. I left in March of 1971, back to private practice, then in March of 1974 got my judicial appointment and went to Palau.
- Siemer: How long did you stay in Palau?
- Hefner: Almost four years, until the end of 1977. Then I came to Saipan.
- Willens: Was it your sense during those years you were in Palau that the Palauans had committed themselves to a separate status, that is to say, separate from the other remaining districts?
- Hefner: That's an interesting question. It is. Lazarus Salii by this time was the Chairman of the Political Status Committee. I don't want to speak badly of Lazarus, but he would go all over the place, Washington, D.C. and everything of this sort. Of course, I was in Palau all the time. And he would come in and out maybe in a day or two and was gone. And he lost contact with the Palauan people. I don't remember the details, but almost overnight he woke up to find out that the Palauans did not want to have any relationship with Yap, Ponape or anything else. Lazarus was going this one direction, and all of a sudden he found the Palauans were going this other direction. Lazarus being the politician he was, almost overnight he switched. That's when he said okay, Palauans now want their own destiny and they're going their own way. But he was way out on a limb, way out there.
- Siemer: Who was the local Palauan leader who wanted the Palauans to go their own way?
- Hefner: Oh, there were a lot. It was a real general feeling. It wasn't just isolated. It was by far the majority. They determined they wanted their own destiny. There were a lot of reasons for it. The Palauans are also a very close-knit society, and they were a very energetic, ambitious people. They didn't want to have to deal with all these other people. They could see that they could develop their own economy, and they didn't want any relationship with any other entity. So it wasn't a difficult decision for a lot of the Palauans to make. And I think Kaleb Udui and all the rest of them were agreed. I can't remember all the names, but almost all the top politicians. All of a sudden Lazarus had to wake up in the middle of the night and find out he was way over here and everybody else was over there.
- Willens: Was there any real sense among the Palauans that they could attain independence and develop an economy and survive as an independent nation?
- Hefner: That was discussed. Roman Tmetuchl and I had long discussions about this, and he was very sage in saying, "There is no way we can go independent. No way, no way." I said, "Well, you're right." About this time is when the military flew in that Marine general and they came in with a helicopter. They took all the politicians in the helicopter and flew over the islands and said, "Gee, we'd like to have a camp here" and all this kind of stuff. Of course, I don't think like the military. And I said, "What the heck do they need this for?" And then they came in with the superport project; they were going to do this and that. It was an interesting time because all these things were flying around. The Palauans all said, "Well, the military, we want it." They had dollar signs in their eyes. Of course, this supported their position. They said why should we share this bonanza with anybody else? It never proved to be a bonanza really, but at the time it looked like it was going to be.

- Willens: Bob, you have discussed some of the points made in your paper entitled *Micronesia: Where Do We Go From Here?* What prompted you to write this?
- Hefner: What prompted it was what I felt was a misdirection, a gross misdirection on behalf of the United States in trying to form a political status of a united Micronesia. I thought it was just a waste of time and that they ought to get on with a really meaningful approach to political status. Of course, it didn't happen for some time after that.
- Willens: Your recommendation was that there be a substantial increase in the powers delegated to district legislatures. Did you have the confidence at that point that there was sufficient sophistication and ability in the districts to handle these responsibilities?
- Hefner: Well, you'll note that I hedged a little bit, because when U.S. money was involved, then we would make sure the money went to where it was supposed to go.
- Willens: But did you have the sense that some districts were more advanced than others?
- Hefner: There's no doubt about it. Palau and the Northern Mariana Islands, I had little doubt that they would be able, because the Marianas had a very active District Legislature, as did Palau. As to Yap, Ponape, and the others, there was doubt, but they weren't the wheelers and dealers so to speak. In other words, I didn't think a lot was going to happen there. So you couldn't get hurt too much by that, I thought.
- Willens: Your proposal was motivated in large part by your sense that the present procedures for acquiring land were ineffective and excessively expensive. Was it your sense that if you made the Micronesians decide these issues and use their own funds, that the land could be used for public purposes at less cost?
- Hefner: That went over like a lead balloon.
- Willens: Do you recall having any discussions of this kind of approach with any Micronesian leaders?
- Hefner: Yes, I did, and just like a lot of the political status negotiations, they nod and smile and walk away, and you know that you haven't made your point. I thought, I still do, that it was a solution to the problem. But they did not want to take over that responsibility or that job in effect. If they had, you would have seen, I'm sure, much more in infrastructure, a lot better projects, so forth and so on, because you would have that much more money.
- Willens: In passing, you made some comments also about the difficulties in developing a local agricultural and fishing industry, and you contrasted the skills and energy that the Micronesians brought to fishing with the energies and skills that the Japanese brought.
- Hefner: Yes.
- Willens: Did you have any personal experience with the efforts to develop a fishing industry?
- Hefner: Yes. There was a fellow, Peter Wilson, who was a fisheries expert down in Palau. He sort of formulated this program, along with Van Camp. Micronization was the key word, you know, to try to get Micronesians involved in this. They'd send these Micronesians back to Hawaii; they did great back there. The "problem" was, and I say problem in quotes, is that they paid them. They'd come back with \$20,000 or \$30,000 in their pocket. When they come back to Palau or wherever, they didn't want to fish any more. They had more money than they could ever think of having. So that program just went down the drain. That's just one example. There were so many different projects to get things going, and they just didn't work out for one reason or another.
- Willens: Were there any successes along that line?

- Hefner: Well, the main success I remember was the reconstruction of the Western Carolines Trading Association, whatever it is. It was defunct, and through the TTPI Government they resurrected that and made it into a very successful enterprise. It's one of the biggest enterprises in Micronesia now down in Palau.
- Willens: You made reference to the arson of the Congress of Micronesia buildings that took place in early 1971. Did your office investigate that?
- Hefner: Yes. That happened not long before I left.
- Willens: February 1971.
- Hefner: Yes. And I left in March. Yes, we did. Of course at this time our investigatory tools weren't that sophisticated. But we think a fellow by the name of—I won't mention his name—but he later got killed in a car crash, and we suspected he was the responsible Chamorro. I think he was the one that did it, but there wasn't enough to bring charges against him.
- Willens: Did you have the sense that the identify of the culprit was well known among the Chamorro leadership?
- Hefner: I think so.
- Willens: No one is being very forthcoming about that.
- Hefner: Well, you know, I don't want to throw a name out. Obviously we didn't know for sure, and we didn't have enough to bring charges on him.
- Siemer: When you were in Palau in February 1975 when the U.S. and the Marianas negotiations were completed, what was the attitude there in Palau about how good a deal the Marianas had gotten in their negotiations with the United States?
- Hefner: I think the Palauans were happy generally to see that, because they could see they could negotiate a pretty good deal. As it turned out, they did.
- Willens: I have the same question about the constitution. When the Marianas finished their constitution in December of 1976, what did the Palauans think of the process by which they had gone about that?
- Hefner: I can only surmise that they thought it was pretty good because they did a lot of the same things. There are two constitutions, in my opinion, in Micronesia that are good. The Northern Marianas and Palau. Those two constitutions are (I think) fairly easy to interpret, they're relatively short, and I think do the job. When you compare them to Marshalls and the Federated States, the Federated States isn't fair to compare because they have a lot of real other problems that you didn't have in Palau and the Marianas. But the Marshalls constitution is an abomination, as far as I'm concerned.
- Willens: Isn't that the one where a distinguished Harvard Law School professor played a key role?
- Hefner: Do you know what's in that constitution?
- Willens: No, I don't, actually.
- Hefner: I'll just give you one example. The constitution is about this thick.
- Willens: Let the record show that he's holding his fingers about an inch apart.
- Hefner: One is that in a criminal case, a Marshallese fellow is entitled to a jury if he's sentenced to more than such and such a time. I'm sitting there and I'm saying well, how do you know what the sentence is until trial? And that is in the constitution. Lawrence Tribe, I think abdicated to the Marshallese hierarchy, because the condemnation power is gutted so how

anything ever gets built I don't know. There is one "saving grace"—it's not really a saving grace—is that quite frankly they ignore the constitution. Whatever Amata Kabua and other leaders want to do, they do. They don't care. They don't care if they have an 80-page constitution or however long it is. They just do what they want to do. And they do it. So I know Tribe is supposedly just a great constitutional lawyer, but I'll tell you what, that thing's an abomination.

Willens: Interesting.

Hefner: And you can quote me on that.

Willens: But you never had the occasion to interpret it, did you?

Hefner: I was invited back to sit as a judge in the Marshalls Supreme Court on a case involving various aspects (I think) of the constitution. But the key of the thing was the genealogy tree of Amata Kabua, and it was something about some sailor who came through in the whaling days and all this kind of stuff. Anyway, the upshot of the whole thing was that I ruled against Amata Kabua, and that's the last time I've been invited back to the Marshall Islands. But I've had occasion to go through the constitution on I think one or two occasions to use it as a basis for some decision, but it's really kind of a mishmash in my opinion.

Willens: One of the issues of the 1976 Constitutional Convention of the Northern Marianas was how to deal with the creation of a judicial structure. The Covenant had left unresolved some issues as to what kind of court system ought to be developed for this still very small community. What was your sense as to how well the structure worked in the early years of the Commonwealth?

Hefner: Well, I remember during the Constitutional Convention Bill Nabors came to me and he said, "Well, geez, we'd like some input on what a judiciary should be like." So I told him, "You got 20,000 people here and you've got limited resources, so I think you ought to keep the judiciary simple until it demands more." I even drew up a budget for him, something like \$190,000.

Willens: Did you think that the system that emerged from that Convention did work in the early years?

Hefner: No doubt. There was the one sentence in there about them having a separate land court, which I really didn't think was necessary, and eventually that faded away. But no, it took off from the very beginning and worked well.

Willens: The use of the District Court as an appellate division was one of the more unusual provisions for the system. What was your assessment of that mechanism?

Hefner: Well, that followed pretty much the pattern of Guam. So I don't think that was any surprise, and of course you had limited resources and you didn't want to overkill. But remember that during the first so many years the District Court not only served as the Appellate Division but also as the trial court for any amount over \$5,000. So it was a Commonwealth court in effect, too. As soon as that period of time, whatever it was, expired, why then I went to the Legislature and they said, "Yes, we'll take all that jurisdiction which we did." But it was a matter of expediency and cost-saving. In hindsight, I think it worked all right.

Siemer: During the 1976 Constitutional Convention, sections of the Constitution were sent to various people for comment. Some sections were sent to the High Court. Did you ever see any of those during that time?

- Hefner: I don't remember, I really don't. This was in 1976? I was still down in Palau. I don't know.
- Willens: You came back in about ....
- Hefner: 1977. December 1977 I came out.
- Willens: And you went on the Commonwealth Court, was that in 1979?
- Hefner: In September 1979.
- Willens: Who were the first Marianas judges?
- Hefner: Herb Soll was the first one. He was an Associate Judge.
- Willens: He had come from where?
- Hefner: Well, he was a public defender. Then John Moore came over from Guam, and then I was one.
- Willens: When did Joe Dela Cruz and Pete Atalig go on the bench? I guess sometime in the 1980s.
- Hefner: Yes, I guess it was. I'm not sure exactly when.
- Willens: During the first decade of the Commonwealth or maybe a little less than a decade, about seven or eight years, there seemed to have been relatively little economic development in the Commonwealth. What was your recollection as to how well the new Commonwealth government was handling its responsibilities?
- Hefner: Well, the first four years you had Carlos Camacho and the Legislature and they just butted heads. The first four years really was government by judicial interpretation of the Constitution. They were in almost weekly on these cases. Carlos would try to do this thing, and the Legislature would try to do this thing. For me, it was just a great time of life, because I was sitting up there interpreting the Constitution. How many judges do that, you know? It's a great experience. You're interpreting this Constitution. Actually when you think about it, it's not unusual, because anytime you have a new entity and a new Constitution, people want to test it, see what it says, so forth and so on.
- Siemer: People seemed relatively happy with that way of doing it. They seemed quite ready to sue each other. But then they also seemed quite ready to accept your views of what it was.
- Hefner: That in my personal view was probably one of the major accomplishments of the judiciary—that the people wanted the judiciary to say what it is and, once they did, okay, fine, that's it. And they went on their merry way. It's not that they won't try again on another tack or something of this sort, but thank goodness for that independent judiciary. It wouldn't have functioned without it. Because you had these two just opposing forces, and I think one of the reasons you didn't have a lot going on is because you had this real animosity between the Governor and the Legislature. You can't solve that by a Constitution, you know. It's just personalities that come in to play. But I think that's one thing that really kind of slowed things down.
- Willens: Were you there then during the first election in the fall of 1977?
- Hefner: Yes. Was it 1977 or 1978?
- Willens: Fall of 1977 because the Government took effect in January of 1978.
- Hefner: 1978.
- Willens: You had the ticket of Joeten and ... .

- Siemer: Oly Borja.
- Willens: Oly Borja on behalf of the Republican Party and ....
- Hefner: Carlos and ... .
- Siemer: Frank Ada.
- Hefner: Frank Ada were the Democrats. Yes.
- Willens: The record seems to indicate that Joeten and his team were favored for the election. Did you have any recollection as to what kind of issues were generated there that led to the election of Camacho and Ada?
- Hefner: Well, the word was that if Joeten got in that Joe Screen would run the Government. That I think, real or fantasy, is what beat Joeten.
- Willens: Was Joe Screen out of the TTPI Government when you arrived?
- Hefner: No, when I first came there, he was one of the major domos of the Administration.
- Willens: What was your assessment of his administrative skills?
- Hefner: I think they were very good. When he quit the TTPI Government and went to Joeten, none of us thought it would last two days. But I'll tell you, it was a marriage made in money. Joe made Joeten much richer, they just got into all sorts of things, and Joeten just blossomed. Did you ever meet Joe Screen?
- Willens: Yes.
- Hefner: Well, you know he's a very domineering, forceful guy, and I think a lot of people thought, "Well gee, if we elect Joeten we're going to have Joe Screen sitting up there on that Governor's chair." I think that's one of the reasons why Carlos Camacho got in.
- Willens: Some of the politicians recall that they argued also on class issues, namely, that the Democratic Party was for the poor people and the Republican Party was for the business interests, and that if you elected Joeten he would be advancing his economic interests.
- Hefner: I don't really remember that. If the election was in the fall of 1977, I came up in December, so I missed a lot of that.
- Willens: Wasn't there some change in the Second Legislature that was supposed to reduce some of the tension with Governor Camacho? I forget who it was, but I thought there was some significant change.
- Hefner: I don't know. It seemed to be it was four years ....
- Willens: Four years of non-stop ....
- Hefner: Bickering.
- Willens: Dispute and bickering as you recall.
- Hefner: Yes.
- Willens: What was your sense about the new Administration composed of Governor Pete P. Tenorio and Lt. Governor Pete A. Tenorio?
- Hefner: It was kind of a refreshing air, really, because Pete P. is more easygoing, he's not quite so dogmatic, and he's much more a politician to sit down and try to negotiate things. So it was really an eye-opener and a real change in the Administration, and things started to go more smoothly. I can't remember if he had a Legislature of the same party. I can't

remember that, but all of a sudden things started to go a lot smoother. The lawsuits over the Constitution kind of diminished, which was a good sign that things were settling down. It was probably about this time that the economic development started.

Willens: What's your recollection as to how that came on the scene and what precipitated it?

Hefner: Well, I remember of course a lot of land deals, but I just really can't remember what the impetus was. I remember one case, you know where the Pacific Island Club is down in the south end? This project was sort of on the drawings boards. It was the South Seas case, I guess that's it. I don't know if you can remember the case or not.

Siemer: Was this Bill Fitzgerald's case?

Hefner: Yes. This Chinese lady came in with \$300,000 in a suitcase or something of this sort. It was kind of bizarre. They were going to start this resort. I think probably that was one of the first ones. I guess everything sort of grew like topsy. All of a sudden the Japanese became interested and saw the potential of the area as being sort of the Caribbean for the Japanese. Well, the first one was what's his name from Guam who built the hotel there across from the court house. What's his name?

Willens: What? The old one? Not the Royal Taga.

Hefner: Well, the Royal Taga. The original Royal Taga.

Willens: It was Ken Jones.

Hefner: Ken Jones. Yes. So I don't know, it just sort of got going. In the South Seas case, see all this time there was this thing about America first, or no foreign investors because of the most favored nation clause. I got on the South Seas clause, and I said, "Well, where's this come from? There's no such thing." In the opinion, I said everybody's had this illusion all this time, that we've had a law, edict or something that foreign companies couldn't come in here. I said it's not there.

Willens: You're speaking of Commonwealth days now in the late 1970s and early 1980s.

Hefner: Commonwealth days. But even in Trust Territory days, I remember sitting in the Cabinet meetings about the most favored nation clause. I said, "Oh, we can't let the Japanese in here, all that kind of stuff, because if you do then you got to let everybody in." But from Interior or wherever down, there was no such thing as a law or an ordinance or (you name it) nothing. So in the opinion I said there's nothing wrong with a foreign investor coming in here. There's no most favored clause. There's no such thing.

Willens: Was the Commonwealth ready for foreign investment then in the 1980s. Let's say more ready than their predecessors had been a decade earlier?

Hefner: Oh, I think so. I don't think there's any doubt about it. Of course, you know, there's affinity there for the Japanese. They'd been there so long. So it was almost a natural fit.

Willens: How did the land alienation litigation get started as you recall?

Hefner: Well, I got sued for one.

Willens: Well I read recently from one of the interviews that you got sued and that Judge Loretta also was sued and that this conflicted you out of hearings. What is your recollection?

Hefner: Ted Mitchell decided to get rid of the judges, which he did. It turned out that this probably was one of the biggest impediments to economic growth in the Marianas—until they pretty well resolved it. Millions, probably billions, of dollars were lost because of the lawsuits. It's just immeasurable. It really slowed everything to a stop. I think it's starting to

come back a little bit now, but who can really trust anybody when you have that around? But it had a very sobering effect. You know, when you sue the Nikko Hotel and say I want my \$3, \$4, \$5 million hotel back. That's not going to engender a lot of favor with the Japanese investors.

Willens: I've seen some reference in the materials to the statute of limitations and a decision applying the statute of limitations to these transactions, whereas the Micronesians or the Marinas people claim that there should be no place for a statute of limitations.

Hefner: I think the Legislature passed the statute of limitations bill. I think they did. The Legislature came in and tried to solve a lot of these problems. I think the statute of limitations was one that they did do. I know they passed a law. I guess I read it, but I really can't remember what's in there now. But I think that had a major detrimental effect on economic development.

Willens: What do you think was the goal of Mr. Mitchell and his clients in bringing these cases?

Hefner: Money. Strictly money. He settled that one case on the Pacific Islands Club, and that's the only money he ever got from it. I think the title company just caged the money away, because shortly after that the reversals started coming in there. So they paid out money they never should have. I guess they just wanted to get rid of that lawsuit.

Willens: Was the creation of the Commonwealth Supreme Court an effort to change the structure in a way that would favor those land alienation cases?

Hefner: I think so. Actually I was one of the proponents of having the Supreme Court. I guess I was naive thinking that judicial independence and the regular interpretation of the laws was fine and dandy. But I didn't properly estimate the strength and power of the local culture and the pressure on the local judges. And that's where the problem arose.

Willens: Is that still a problem there, in your judgment?

Hefner: Not with the current makeup of the court.

Willens: How about other areas, Bob? There's been as you know a lot of debate in the U.S. Congress through oversight hearings about the Commonwealth's control over immigration and its handling of alien laborers. Do you have any judgment as to how these problems have been handled out in the Commonwealth?

Hefner: Terrible.

Willens: Can you elaborate on that?

Hefner: Well, the immigration code, if you want to call it that, is taken almost directly (I don't think there's hardly been any amendments) from the old Trust Territory Code. You're trying to run the immigration system with an estimated five-page code. You're familiar with the U.S. Code. Immigration is volumes. And you've got built into that the inherent problem of trying to develop an economy with almost a non-existent work force, so you've got to bring in all this alien labor. Once you do that, you've got all the problems—the infrastructure problems, crime and everything of this sort. It's my opinion (and I'll probably get skewered for this) that the U.S. should control the immigration in the Northern Mariana Islands. It's going to get worse if they don't. It's not a popular thing to say, and it probably won't happen, but I think that you've got too many examples of things gone wrong in that particular area. Labor abuses that just make your stomach curl.

Willens: Did you see some of that developing when you were there?

Hefner: Oh, yes. I had cases where I'd like to leap off the bench and sock somebody in the eye. It's almost like you're a black in Mississippi in 1949 or something like that. It just rankles you. Had one case where a little Filipino gal (they recruit them in Manila) who was supposed to be a waitress or whatever. There's a Korean nightclub. So she works in this Korean nightclub. Well, the owner probably was making all kinds of money but, for instance, if a customer doesn't pay for a drink, they take it out of their wages. By the time they get their paycheck, there's hardly anything left there. It's almost slave labor. In one lawsuit, I had to go and look at their living quarters. There are bunks stacked up like this! Anyway, this little gal had become enamored with a local American there. She started to complain. Well, the worst thing they could do was complain. She finished her duty about midnight or something of this sort, and two of the thugs of the Korean nightclub owner grab her. Pack your bag, they just threw in some stuff, and she said, "You're going home." She said, "Well I don't want to go. My green card or whatever it is (permit) is still good." "You're going." They forcibly took her and forcibly put her in the car, they forcibly took her to the airport. All the time she's saying I don't want to go, I don't want to go. They get her to the airport. The Continental people obviously know what's going on. She says I don't want to go. They forcibly take her up the ramp, they turn her over to an Air Nauru guy, and he drags her up the ladder. All the time she's saying no, I don't want to go. Puts her on the plane and they take her and go to Guam. Well by this time her American boyfriend found out about it and got her in Guam and brought her back. She filed suit against everyone down the list. Continental was smart enough. They settled out. They paid a lot of money. So the case went before a jury. I'm sitting there hearing this stuff and I said what if something like this happened in St. Louis, you know? You'd have a \$45 million lawsuit. I go through this, I'm sitting there, I'm getting madder all the time. The jury comes back with a \$2,000 verdict. I'm just fuming. So the jury's disbanded. They come in on costs. Anywhere there are costs, I give the cost to that little old gal. And I tell the attorney, I said you know what? If I'd had additur, I'd add about \$3 million to this. I read them out, they all sit there with a sort of a blank look. Mike White was one of them. Mike White represented one of the defense. I'm sitting there and I'm thinking, you know, this is terrible. But this is just an isolated event. I've had witnesses on the stand, Chamorros, say, "Well, is this your maid?" "Yes, this is my maid." "Well, did you slap her?" "Yes, I slapped her." "Why'd you slap her?" "Well, she's my maid." So there are just hundreds of events like that. Micronesian Legal Services used to come in and represent these people. They had no one else to represent them. The politicians got after them, everybody got after them, and said you can't represent these foreigners. Where are we? This has an American flag flying out there.

Willens: What was your assessment of the Micronesian Legal Services program?

Hefner: When Ted Mitchell was in charge of it, it was an abomination. They were there three years before they even filed one lawsuit. I don't know what they were doing. And he hired some real funny people. When he finally left, that was the best thing that happened. After a while, I think it really improved. They had some good people there. Except for the first few years, it's really served a purpose.

Willens: Was the Public Defender Service also available under the Commonwealth?

Hefner: Yes, and they've generally done a good job, too.

Willens: How long did you stay on the Commonwealth bench?

Hefner: Twelve years.

Willens: And you went off it then in ....

- Hefner: 1991.
- Willens: You still practice law?
- Hefner: Well I have a business back there and I go back and forth, doing arbitration and mediation.
- Willens: That's right. We heard that actually. How's that going?
- Hefner: Fine. The last one I sat was on the Hillblom case. Did you see Dateline?
- Willens: No.
- Hefner: It was on Dateline.
- Willens: Oh, about Hillblom?
- Hefner: Yes.
- Willens: Well, I was telling Deanne I did see something recently on television. I thought it was Hard Copy. I don't know what it was.
- Hefner: No, it was Dateline.
- Willens: I see.
- Hefner: Yes. Still going on.
- Willens: What issues are you trying to mediate?
- Hefner: They sent out for arbitration the funeral expense claim, the search and rescue claims, and a \$1.5 million claim on some debts that Larry had owed.
- Willens: Did you ever get involved as a judge with the issues about the Covenant and exactly how much local self-government the Marianas was entitled to under the Covenant?
- Hefner: No, not really.
- Willens: Were you familiar with the effort that Mr. Hillblom and others made in the middle 1980s to reassess the relationship?
- Hefner: Yes. Larry'd come in. Did you ever meet Larry?
- Willens: Yes, several times.
- Hefner: He'd sit down and he'd have his mind set. He'd start going like this. I'm trying to catch up with him, and a lot of times I'd just sit there and nod and wonder what the hell was he talking about. But he was energetic. Anytime he saw some little project or whatever, he'd go at it tooth and nail. He had his own vision of what could or couldn't be done. I don't think he was overly successful in that particular area, but he enjoyed doing things like that. He was a smart guy.
- Siemer: How often do you get back to the Marianas now?
- Hefner: Let's see, I've been back twice this year. I'd say an average of once every four months, something like that. It just depends on what has to be done. I've got a whole bunch of medical malpractice claims on Guam, but they just sit there and don't do anything on those things.
- Siemer: Are they mediation cases or arbitration?
- Hefner: Arbitration. Guam has an Arbitration Act where all medical malpractice must go to arbitration. It sounds fine, except the problem is you have to have three arbitrators, and they can never agree on three. They always agree on me, but they can't agree on the

others. So it's not the way to run an arbitration. Arbitration must be efficient, fast and expedient.

Siemer: There's no provision like AAA if they can't agree?

Hefner: Well, AAA is the one that they're run through. They're the ones that I'm dealing with. You know, I think they're as frustrated as I am with this thing.

Siemer: Under AAA rules there's a 30-day provision if nobody agrees.

Hefner: Don't tell me, I know. I said, why doesn't something happen here? They say that the Guam statute doesn't allow that, so forth and so on. I said why don't you go tell them to amend the statute or get rid of it. This could have gone to court trial quicker and cheaper than this. It's a sad situation. But that's another story.

Willens: Just a few last questions about the Commonwealth, Bob. Do you have a judgment about the overall success or failure of the Commonwealth over the last 20 years? You've made reference to the immigration and labor abuses problems. How about the provision of health services and educational opportunities available under Commonwealth? Has that improved?

Hefner: Oh, I think so. Definitely, yes. I remember the old Torres Hospital and what they've got now. The physical plant is a tremendous improvement, and I know that they have a lot of administration problems in the hospital. That's probably due a little bit to the local pressures and stuff like that. But I think generally health care has improved immeasurably. They still send medical referrals and stuff like that off-island, but I think that's improved a great deal.

Willens: What's your overall assessment of the Commonwealth as sort of an experiment in U.S. political systems?

Hefner: I think my biggest criticism is our failure to teach fiscal responsibility. I think we got the attitude—meaning the U.S. Congress on down—the attitude of just throwing out more money. More money will solve the problem. It did solve some obviously. But I think what we did was install a way of thinking that there's a bottomless money pit back there, so if we run the government into debt, we'll be bailed out. I don't know what the deficit now is in the Marianas. It was staggering at one time. Maybe they're pulling themselves out of it. But if you look at probably all the other entities, you'll find them in really bad financial straits—Palau I know is. I think that's where my criticism lies—that the government just didn't instill good fiscal responsibility. I'd lay, quite frankly, most of the blame for that on the U.S. Congress. When I was in the Government, in the Executive Branch, we'd say okay, this is how much money and so forth and so on. The Micronesians would get upset, mad at us, and they would send a delegation back to Washington. I'll tell you one thing about the Micronesians, they were the best salesmen in the world to get money out of the U.S. Congress. Burton or any of the rest of them, "Well, how much do you need?" you know? It made us look bad because now all of a sudden the U.S. Congress sends all this money out. So they said the heck with you guys, we'll just go back to the U.S. Congress. I don't know of one time that they went back there that they just didn't get about everything they wanted. They had an amazing attribute of getting the U.S. Congress to give. And I could see it. If I was sitting there, a Congressman in Iowa, for example, and have these people from the islands come out and say, "Well, we don't have this or that", I would say, "Let me write the check." But in hindsight, I think that was a real mistake. I think we just didn't instill a sense of fiscal responsibility, and it's showing now.

Willens: Any other thoughts?

Hefner: No.

Willens: Okay. That concludes our interview. Thank you very much.