

**SHOWDOWN AT TUCSON:
THE GREAT SANCTUARY 'ALIEN-SMUGGLING' TRIAL**

by Richard Elman

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I am also truly grateful to James Corbett for allowing me to read and quote from his two self-published collections of writings: "Borders and Crossings" and "Goatwalking."

And I was greatly aided and enlightened, and instructed, by my reading of "Sanctuary: The New Underground Railroad" by Renny Golden and Michael McConnell, Orbis Books (Maryknoll, New York, 1986).

Epigraph

"The infamous Philippe is an example of the kind of Character I detest most in Paris: a defender of the government, a man of honor always, except in the decisive issues of our Time."

Stendhal, *Memoirs of Egotism*, translated by Matthew and Hannah Josephson.

DEDICATION

This book is dedicated to my Central American friends, in the wake of Leviathans, they endure with courage and hope; and for Alice, as always, and for my daughter, Margaret, who first brought me to Tucson.

FOREWORD

At last count, more than 300 churches of varying denominations, some synagogues, the State of New Mexico, and major cities such as Los Angeles and Rochester, New York, have declared themselves as sanctuaries for political refugees from El Salvador and Guatemala. This means they will offer them shelter and assistance in applying for refugee status, and will not cooperate with the INS and other Federal agencies, in rounding up such persons for detention, and eventual deportation hearings.

The burgeoning Sanctuary movement, itself a response to U.S. support for governments in Central America which have persecuted their citizens for political dissidence, has also threatened to become a major and vocal critic of U.S. immigration policies, and of the foreign policies of our government in Central America. It was certainly no accident that the Government should have tried to silence its critics through a show trial in Tucson, Arizona in 1985-86. It charged them with a conspiracy to smuggle illegal aliens.

The Government's political trial of Sanctuary was met head on by Sanctuary's effort to make the Tucson trial a political indictment of the U.S. Government. Though this managed to generate publicity and support for the Movement nationwide, it failed Sanctuary in Tucson, in the Federal District courtroom of the Hon. Earl H. Carroll, where the Government's case prevailed.

This is my account of that trial. I witnessed much of it over seven months, and spoke to all the participants. I am not a lawyer, but a writer, an interested witness to what was being enacted in the city where I was temporarily residing.

Even while the trial was underway, the Sanctuary movement was continuing to operate in and around the Tucson area, and nationwide in areas as distinct as the border communities of Laredo, Texas, and San Diego, California. The Government's surveillance of its borders, and of churches and other organizations engaged in Sanctuary work, was also intensifying.

My primary focus is on the trial in Tucson. I believe it represents all the cynicism and double-thinking implicit to the Government's behavior nationwide.

The trial was also an enactment of the follies and deceits of our legal system, of jurists, and of the high-minded liberal-left in this country: in support of Judeo-Christian values, of a cause, they've come into conflict with the ruling business classes of the Reagan Presidency, and the discretionary bureaucracies. The latter do not see their interests served by liberal immigration policies from Central America. The former often seemed to offer the court only their sincerity of intentions, and were callously and in a contemptuous manner disregarded.

My interest in the Sanctuary movement also comes from my involvement as a journalist over the last decade in Central America, especially the major upheavals in Nicaragua, Guatemala, and Salvador, and the growth of a middle class society for one segment of the Mexican population, and the increasing pauperization of much of the rest of Mexico. I have included eye-witness accounts, my own and those of others, of the refugees' milieus, of their struggles within their own societies, of their treks North, and their anomies here, once they have established themselves as underground 'illegals.'

The bulk of what I have written here is about a rigged trial; I am reporting on activities as they were revealed to a jury in a court of law, and on what the jury did not hear but remains a part of the trial record, and on the activities of the dependents in and out of court. This all came to seem to me to be the scenario of a governmental effort to entrap, and to deceive, to falsify in

order to justify foreign policy and policies of domestic surveillance of churches and private homes, to make legal bureaucratic lawlessness. Whether the Immigration and Naturalization Service, acting on behalf of the Department of Justice, also violated constitutional guarantees of the state's non-interference in religious activities, by placing undercover agents to scrutinize First Amendment activities, is an issue which the Courts of Appeal will have to decide eventually.

Sanctuary began as an association of friends and colleagues in the helping professionals on both sides of the U.S. – Mexican border. Both U.S. citizens and Mexican nationals were tried in Tucson. The Government depicted their acts as a “conspiracy.” The Judge was more sensitive to the lawless behavior of men and women of conscience than he was to the lawlessness of governmental agencies. He believed the system was the best hope for himself, and those of similar interests. The government's case was based on nefarious conduct: the Defense was prohibited from discussing its case against the government, its motives for its actions, and even the international accords and congressional acts which prompted the Sanctuary movement to believe it was acting in a legal manner to help refugees. The government's behavior in the Sanctuary case, and the statist interests which were upheld through the jury's decision, remind me once again of St. George Orwell's remark that fascism is just Socialism, with the virtues removed.

I

All Men Are Jews
*From what I've seen
 sanctuary...bloomed
 and spread so rapidly
 because its roots go
 back to Sinai.*
 James Corbett

“The few words I say after you leave,” Federal Judge Earl H. Carroll told a departing court reporter in the presence of a jury and a reluctant Central American witness during trial proceedings in Tucson, Arizona early in 1986, “will be of no historical moment.”

Rarely has a jurist seemed so well-informed about his own mind, so apt in his pronouncements. Judge Carroll was presiding over a “an alien smuggling conspiracy” trial like some Balkan pretender to a communized throne; and, knowing he was on trial himself with the press, the gallery, the Defense, he was continually trying to establish ‘furtherance’ for his case with unbecoming shows of modesty, then arrogance.

“What you said, that is the spoken word. That is what you said,” he consoled a defense attorney, at another point.

He truly must have felt vindicated by the outcome of the Sanctuary trial. A political proceeding about U.S. Central American immigration policies became, under his gavel, an inconclusive judicial farce in which most were given felony convictions, and then put on probation, after a governmental outlay of at least 3 million dollars (more than \$135,000 per defendant) – and a few were also acquitted.

Judge Carroll also seemed to feel ill-at-ease for being so openly criticized as prolix and smug. He didn’t refute charges of racial bias against Central Americans, or conflict of interest (because he owned shares in Phelps Dodge, which owned a cable manufacturing company in El

Salvador with a history of labor difficulties), though, when he could, by inference or directly, suggested such accusations were merely frivolous, and he would address himself to his alleged 'bias' only after the trial was over.

Throughout the long and rancorous "Sanctuary trial" of 11 "good" Christians – two Catholic priests, a Minister, a nun, and 7 lay workers – accused in the indictment of a "conspiracy" to help "illegal aliens" from Central America enter the U.S. – Judge Carroll sprang to his own defense with considerable intrepidity by coming to the Defense of the U.S. Attorney time and again. There seemed to be at times, an identity of views through which Judge Carroll ruled out nearly all the arguments of the Defense for their behavior before the proceedings had even begun.

The Defense had no seeming right to try the case according to the idea which had impelled them to act. "Let me say this," he kept saying, as he declared for the U.S. Attorney that motive was of no relevance, nor religious beliefs, nor international law and U.S. signed covenants. Judge Carroll did allow the Defense of "advice of counsel," that Sanctuary had been honestly advised what they were doing was legal, which would have been an admission that they'd acted as charged.

Judge Carroll's dismissive remarks about the need for 'Sanctuary' to protect refugees from deportation and, possibly torture and death in their home countries, seemed to mimic those of one juror candidate during "voir dire" who declared he thought Sanctuary, was something "for the birds."

In court Carroll's behavior was on the rude, cold side of correctness toward the Defense and their attorneys. He did not seem to like the Defense offering up a too "vigorous" defense, and often what he said seemed totally without any sense of the historical moment he was living

through. His most careful reflection was to see himself, as in a peer glass, the embodiment of law and due process. From the scatter-shot indictment, the Judge seemed relatively certain a crime had been committed somewhere, since it had been brought to his attention to judge the matter.

Throughout the trial, Judge Carroll seemed to demonstrate an operative belief that the Immigration and Naturalization Service behaved pretty much as it was supposed in law to behave, though between law and policy was practice, the day-to-day workings of an Agency INS which many lawyers say has just about as many 'dirty tricks' as the CIA, and which was not pleased to call Central Americans 'refugees' in 1985-86 and admit them to the USA.

The United States hasn't always selected who can come in and who cannot by fair-minded criteria, Sanctuary, among others, has contended; and the INS has often been allowed to use law and discretion to deny entrance. Orientals once bore the brunt of discriminatory practices and policies; before the Second World War a boatload of two thousand Jews were turned back. The Cold War revised priorities somewhat: Jews from the Soviet Union now find they have an easy time coming in as refugees, if they can get out of Russia; and there have been discretionary exceptions made to admit Vietnamese, Laotians, some Cambodians and even Mung tribesman. There is proposed legislation to grant Poles "special refugee" status. But from the countries of our close neighbors and "friends", El Salvador and Guatemala, Central American refugees are still without official license for their internationally-recognized refugee statuses, and their admission to the U.S. legally, despite the existence of any number of programs, is often difficult, if not impossible.

In defense of such policies INS General Counsel Maurice (Mike) Inman has pointed out, “If an individual has a legitimate claim to asylum, he/she should come forward and make that claim,” (letter to Richard Elman, June 23, 1986).

“Being in church basements or wherever the Sanctuary movement tends to keep individuals that are part of the movement, “Inman, a well-to-do personal injuries lawyer from Beverly Hills, observes, “does not assist an alien to achieve asylum.”

In truth very little helps Guatemalans and Salvadorians to “achieve asylum” by official means. If they come forward to make a claim they are usually denied.

There are three basic ways refugees from Latin America can enter the U.S. They can apply from out of the country through the “overseas refugee admission program.” The Latin American quota is 2,000 of a world-wide quota of 70,000, but only Cubans, practically speaking, qualify, and only those who have been in Castro’s prisons. In 1983 only one Guatemalan was admitted, and in 1986 an increasing number of Nicaraguans are being accepted.

Salvadorians and Guatemalans can also apply for asylum through the INS, once they have entered the U.S., as Inman points out. But only between 1 and 3 percent of all those who apply from these countries to the INS are probably just being troublesome. He did not want the Government “persuaded” by the jury for its shabby undercover behavior toward the churches in Sanctuary who were helping sustain refugees with legal counsel, room and board, and transportation. He warned the Defense more than once he would not countenance a plea to the jury “to punish the Government by voting against them because you didn’t like something the Government did...that is jury nullification.”

From Judge Carroll’s legalistic preview, “jury nullification,” which happens all the time, seemed far worse than deporting innocents to Central America. Since they weren’t citizens,

what happened to them wasn't his concern. But the legal system as it worked itself out in his court was. The Judge seemed most anxious to prove he was a Jurist faute de mieux: the law was the law; it was not meant to be humane but operative and effective, like a stock prospectus.

Some people are defensive at the expense of their sense; others shake their patriotism or pieties at you like maracas. Bluntly put, Judge Carroll was both and neither. He was the stopper to plug up the hole in Immigration and Naturalization Service accounts about their putative treatment of Central Americans. It was the luck of the draw for Carroll to be chosen, his turn in the barrel. Many people were being murdered in El Salvador and Guatemala and tortured, by the forces of "counter-insurgency" which our Government helped to create and sponsor; and in their desperation survivors were trekking northward as "refugees" to be treated at our borders as "aliens," detained, and deported. This was obviously not the sort of "historical moment" Carroll really liked to consider; and so this former utilities lawyer insisted showing "mercy" was not a "relevant defense" to charges of alien smuggling, "harboring," etc., victimless crimes, at best, against the State.

When the jury was in court his smiles were oleaginous, obliging; out of their sight and hearing, he ranted about a defense that was trying too hard to defend its clients.

Usually people are tried for injuring persons or property, cruel or venal acts. The prosecution with Judge Carroll's consent, managed the suggestion of venality without the substance. A priest took \$100 as alms for helping feed refugees and the suggestion was corruption.

Judge Carroll did not seem to ask himself any questions voir dire. He simply could not permit himself to imagine arising from some of the same political instrumentalities which had

elevated him to the federal bench. A Carter appointee, this conservative Democrat could possibly imagine himself vis a vis the administration of Ron Reagan as non-partisan. The idea that the drama of Moses in the Sinai was being enacted in modern times in the Great Sonoran Desert must have also seemed truly implausible to him.

Some men wear their nightmares out of bed: Carroll's was chaos; he deplored it, struggled hard against it, as though cast to play the Judge in a Marx Brothers film. Sometimes this worthy earnest ruled against motions for the Defense before they'd even been made. This was certainly the biggest case of his life from all but a fiduciary point of view. If provoked, the Judge would break into terrific heavy sweats, as though he was stewing in a "court-bouillon" of his own stock.

"All men are Jews," a character in a celebrated work of modern fiction declares, meaning they suffer through history and are consequently, capable of redemption. It is a central heuristic deceive of America that the immigrant's redemption should come as a consequence of his establishing residence in this "land of opportunity." Judge Carroll's view of history, nevertheless, remained singularly single-dimensional: American civic greatness had its foundations in a system he said he was protecting, the fairness of which had been demonstrated by his rise in the world from decent poverty to financial success as a partner in the leading Phoenix law firm, his representation of Phelps Dodge Corp., in which he held shares, and his beautiful white hair. Carroll was now a member of the Arizona "Establishment," a former Regent of the State Universities, enrolled in exclusive clubs. He seemed especially distrustful of

any disinterested acts of generosity, and suspicious of the notion of conscience motivating necessary actions on behalf of others, especially brown skinned Central Americans.

So white haired he seemed somewhat red faced, even though he was fair, a little seamy-looking and cragged, though soft about the chin and jowls. In black robes he took on some aspect of the late Spencer Tracey playing judge, though he was not such a big man, in type more like his Honor, Mr. Chief Justice Warren Burger peering out from the neck of a robe that often seemed skimpy and sometimes too large. In short sleeves at breakfast every morning at the nearby Santa Rita Hotel, he looked grandfatherly, a teddy bear still clinging to sleep, beside his pasty-faced clerk, Dana Campbell. In Court half an hour later he was cranky and peevisish.

(Carroll's colleague, Federal Judge Richard Bilby, was called in at one point early in the trial to conduct a hearing in place of Carroll on "conflict of interest" and unfairness. He ruled against the Defense, whereas privately, he expressed sympathy with their predicament. But in a written opinion handed down after the trial verdict was in, in mid-May, Bilby argued there was no merit to the intentions of the Defense.: "...at least 3 of the defendants have stated what they had done and their reasons for doing it based on their religious beliefs. What Judge Carroll has said is not that they were guilty, but at least those people had admitted committing the acts.")

No matter what was said by the Defense as proof of his conflict of interest or seeming other "bias," so that he should "recuse" himself, Judge Carroll's face would sometimes redden, his voice became whinier; "let me now say," he would seem to wheedle and cajole with sweet reason, as he steadfastly held with the prosecution and offered the Defense, aside from a cautionary glare toward the two long trestle tables where they all sat, with their defendants looming behind them at a 45 degree angle to each other, his characteristic expression of presiding, of being in control: "Ladies and Gentlemen let us now proceed."

History for the Judge was clearly a linear affair, a progression of his gains and progresses and petty animosities. He was anxious to avoid a show trial, if the government lost the show.

Sometimes Carroll acted like a peevish night court magistrate sentencing drunks, or, if he chose to elevate himself somewhat, it was by such truistic observations as the rights of the Defense were important, of course, but he also had to be concerned, as the Judge of this court, with the rights of the prosecution.

“To the extent that the (present immigration) system works slowly,” Judge Carroll, at trial’s end, explained, of delays, and deportations and star chamber immigration hearings in which deportees were not even represented by counsel, “that’s not necessarily the fault of the system, but of the people who use the system.”

(That’s why we continue to say, so many years after his death: “A Learned Hand is worth 2 in the bush.”)

The historical dimension and its momentum backwards and forwards in time was never lost on one Sanctuary co-defendant, James Corbett, a slight man of roughly Carroll’s age with a little grayish goat beard, and a prominent grey stare. Corbett’s public manner was diffident and withdrawn, like an undertaker sitting up with his own corpse. But he was an advocate of new non-nuclear-family-based communities in the desert; he was a sexual visionary who sometimes aspired to being a seeming libertine, composing randy and priapic ballads and aubades. Corbett was also an intellectual who helped to formulate much of Sanctuary’s thinking about refugees. Others less involved were acquitted for the ‘conspiracy,’ if there was one, which with so much time on his hands after retirement, he’d envisioned in prophetic terms.

After leaving his studies at the Harvard Graduate School, this Quaker non-violent activist with an M.A. seemed determined to be a contemplative of one sort or another. His worldly ambitions seemed limited, at first, to full-time ranching and “goat-walking,” along the Mexican border near Douglas, not awfully profitably, and he was also a Parks Ranger, taught “wildlife symbiotics,” and traded in horses until his hands and feet, Job-like, became afflicted with painful crippling arthritis.

The sanctified view of things is difficult to escape, for some people. As a rancher, Corbett could not have easily avoided seeing the detention and deportation of “illegal” and “undocumented” Mexicans and “Central American aliens” as a persecution, a violation of U.S. signed international covenants and acts of domestic law, and he saw his place as giving witness, doing mercy for the *gerim* (Hebrew for refugees); and eventually ended up a co-defendant in the conspiracy trial taking place in Judge Carroll’s courtroom. (His wife, a straight grey-haired woman, attended with him almost every day, and occupied herself drawing cartoons of pussy cats with various jurisprudential physiognomies.)

The 11 Christians in the desert city of Tucson, where Corbett had gone to live after retiring from his property in the South, faced felony sentences on each charge of up to five years in prison. With his characteristic flatness, Judge Carroll continued to rule, every chance he got, for the jury to consider the defendants’ intentions as having nothing to do with their acts: nor as pertaining to social or political conditions in Central America, nor INS practices. If all were to be tried as common law-breakers, co-conspirators in an illegal enterprise, this was so much less than even a careful person like Corbett had claimed for the movement he helped found which

came to be called “Sanctuary.” Privately, he always demurred about efforts to “theologize” him, and, in the self-published voluminous writings he called “Samizdats,” he depicted Sanctuary as a more ameliorative ethical commitment of seemingly ancient provenance, a renewal of humankind’s covenant.

“The practice of Sanctuary,” wrote Corbett, “works as a social leaven that does nothing to smash corrupt institutions, and may even serve, in attempting to hallow the world as it is, to make established rule more tolerable.”

“If we are to survive in some Pauline hereafter,” he wrote elsewhere, “looking down from Heaven, as a covenant community, our place will be with the Damned.”

And when he was not trying to place St. Paul the Jew inside a pastry shell Dostoevsky, he could get even more tendentious about how the faith of the Hebrews was playing out for those who wished to help campesinos find sanctuary: “Trying to understand the revitalized Latin American church without Moses is like trying to understand the Communist party without Lenin.”

Trying to understand James Corbett without a crib of his interesting, spotty prose is like trying to eat beef Wellington with chop sticks. This sort of thinking was not unique to Corbett; it was almost the air breathed by new Catholic liberation theologians and inter-denominationalists in Europe and the Americas. For far too long established “vertical” churches supported the interests and values of the established order and were rapidly losing the poor to those who preferred to “choose life” to pietism. In the desert, in Tucson, Sanctuary had also become an outspoken critic of U.S. Central American policies of support for murderous military despotisms, and that critique, so outspoken, led to an undercover governmental investigation

called “Operation Sojourner” of certain churches in Tucson, Phoenix, Chicago, and elsewhere, and of the whole Tucson Ecumenical Council, main coordinating body of the religious in Tucson, which resulted in the indictment of the 11 defendants (originally 16, then 12 but one woman ‘plea bargained’, as stipulated, without prejudice to the case of the Defense):

UNITED STATES OF AMERICA,
PLAINTIFF

V.

Mario del Socorro Pardo de
Aguilar, Antonio Clark, Phillip M
Conger, James A. Corbett, Mary
Kay Espinosa, John M. Fife, Peggy
Hutchinson, Wendy LeWin, Nena
MacDonald, Darlene Nicgorski,
Ramon Dagoberto Quinones,

Defendants.

The Indictment No. CR-85-008-PHX-EHC was for violating section 18 of the U.S. Code, 371 (Conspiracy) and 5 other related violations stemming from that:

“In or about late 1981, or early 1982, and continuing up to and including January 7, 1985,” the indictment alleged, “within the District of Arizona and elsewhere,” the defendants and “unindicted co-conspirators, aliens-unindicted co-conspirators, and others known and unknown to the grand jury did unlawfully and knowingly combine, conspire, and agree together etc...”

Conspiracy cases are as hard to prove, in the main, as the existence of Prester John’s balloon. The mere fact that some people have a common interest and talk about it does not necessarily mean a conspiracy of criminal intent, except in paranoid McCarthyite times. Of the

72 original counts to the indictment only 30 (24 felonies and 6 misdemeanors) were eventually tried over more than 5 months of court squabbling; and only five of the 11 were eventually convicted on the “conspiracy” charge . And when Chief Defense Attorney Robert Hirsh summed up his unsuccessful case for acquittal on all counts, he likened the situations of those Central American refugees brought across from Mexico to “Jews in Germany in 1939.” The Migra (Immigration and Naturalization Service, INS, Border Patrol) – according to Hirsh – behaved just like “a Gestapo.” Sanctuary, Hirsh pointed out, had Central Americans say they were Mexicans when detained by the INS as a matter of self-preservation, as when a Jew in Nazi Germany passed himself off as a Catholic.

Jewish messianism can reflect what is desperate, or merely disparate; it often takes on some odd disguises. The early Protestants, for example, of the Reformation, including our own Puritans, saw themselves as Hebrews in an Edenic New World. Corbett, the Quaker, and Hirsh, the Jew, seemed to be a mix of puffed rice and wild oats.

Somewhat deracinated-seeming, with a gambler’s tastes, Hirsh probably should have been a gentile to please the jury: He represented the Reverend John Fife, of Tucson’s Southside Presbyterian Church, a largely working class Latino congregation which had early on openly declared itself a “sanctuary” for “oppressed” refugees, (after a secret ballot), with open ceremonies and large painted signs on the front lawn.

Both men, Hirsh and fife, were transplanted Pennsylvanians, but Hirsh’s residency in Arizona went back to his childhood. He’d grown up in hot dusty Tucson when it was just a small Southern Pacific railroad city, in the desert, 60 miles from Mexico, on the route to LA. Hirsh got all his important schooling in Arizona and was a great, though controversial, success. Prior to the “great alien smuggling trial,” he’d made a reputation by his “for hire” advocacy on

behalf of the perpetrators of violent crimes and the drug trade. His newspaper photo was plastered onto the wall of a local deli (until it moved elsewhere), along with all the other showbiz types who played Tucson, and he was very successful, though not awfully popular with a lot of Arizonians. Many disapproved of his skill at saving the lives of murderers from first degree convictions (and possible executions) at Florence State Prison. Hirsh was generally perceived as “slick and unethical” and there may have been some jury resentment of his other clients which spilled over onto the case of Fife, a beloved pastor, a tall lean dignified cleric, a graduate of the Pittsburgh Theology Seminary, with silvery hair and a little silver beard who favored color-coordinated clerical shirts, and chic Tony Lama-style cowboy boots.

Seen together Fife and Hirsh seemed to be making each other hyper. Like many clergy, Fife was always trying to seem current. During the trial he worried about neglecting his flock, and admitted he was guilty of the unworthy act of praying for himself to be acquitted.

Hirsh wore mirrored sunglasses, and suits which emphasized his long sleek frame. Near the large Jacuzzi, or the showers at the downtown City health club, he could pretend to be one of the guys, but he was definitely a bit of a loner, handsomely reptilian in appearance, his lead grey hair worn full around the air like a cloche of shot satin. He could have passed for the maitre de of the San Maniega House restaurant, at one time a notorious Tucson pick-up spot, which he'd briefly owned, but he was a man of “action,” with lots of repartee for the local press. The family owned a popular local shoe store.

The renowned attorney for the Defense sometimes suffered from a plague of frogs in his throat which he cleared only after a certain strenuous effort, and the occasional use of a nose inhaler. He could often seem quite ill-at ease and sometimes he was only acting.

Judge Carroll's small courtroom, which looked like a blond wood den in a finished basement, was early on assailed by a plague of blood when a former priest named Dunc Murphy, loosely affiliated with the Berrigan Brothers in "direct action," splashed a vial of his own blood "extracted only yesterday," he claimed, against the blond wood wall of the courtroom, and then made ensanguined hand prints on that wall.

He did it so early in the day, after consulting attorneys, in order that the jury, in his words, "would not be tainted" by his act. The absent jurors did not even know this had occurred, for they were forbidden to read about the trial in the papers by Judge Carroll.

The demonstrator said he was speaking out against the murder of "innocent men, women, and children" in Central America. "Arrest that man," cried a red-faced Carroll, as though speaking inside a gourd. The former priest was seized by one bailiff and two marshals and led peacefully out of court whereupon he asked to use a bathroom to wash the blood off his hands and escaped through a bathroom window and gave interviews later in the day with the press.

(Judge Carroll never looked with a kindly eye at me after the incident, since I was sitting next to the demonstrator and had even changed places with him, at my request, so he would have more room to splash. The Judge had not forbidden himself from watching the evening news, moreover, and when he saw me on the evening news also being interviewed about the activities of my neighbor in court, he wrongly assumed I was part of the conspiracy. For a few days thereafter, the marshals gave me a hard time about getting into court.)

If Corbett and his friends in Arizona and Sonora were simply trying to help refugees find Sanctuary, which was certainly not the aim of current U.S. immigration practice, what he wrote and what he said they all did constantly analogized the plights of these Central Americans with a central agon of western humankind, Jewish martyrdom. Corbett was a student of Hebrew, though an atheist, and, like most skeptical contemporaries, a nonbeliever in an after life. His writings seemed to reverse the ages-old Christian doctrine that the Jewish redemption would come about through a conversion to Christianity. Corbett suggested that the redemption of the Christian churches who chose to participate in Sanctuary (over 300 at last count) was coming about through a return to fundamentally Jewish ethical commitments, through “Torah,” as embodied in the Decalogue and our understanding of it:

Corbett had called the Latin American “base communities” after which Sanctuary was modeled “an attempt to actualize *Shalom*.”

Like a Hollywood actor playing courtroom attorney, Hirsh, showboating, seemed bemused by his own sudden authenticity. He had never been known for being politically outspoken. Now he felt impelled to call the behavior of the government, with its undercover agents, in a genuine indignation that did not suggest his government’s actions had once occasioned a good many of his previous business retainers, “disgusting.” He was presently being paid, like nearly all defense counsel, willy-nilly, for his advocacy of “Sanctuary,” on a modified *pro-bono* basis out of a defense fund which held fund-raising benefits all around the country, including the largest of the local synagogues.

A militantly leftist colleague for the Defense referred to Hirsh as a “*mensch*”: instead of his customary five figure per week fee for appearing in court, he’d been drawing rather on the

order of “two zuzim.” The press adored him; the prosecutor wanted him cited for “contempt.” If his indignation was not genuine, he was taking an awful lot of chances with his career. But, as he said to me, “there is still such a thing as a Constitution, even if this government doesn’t want to believe it.”

In delivering “the emmes,” as he saw it, Hirsh stammered a little among so much blond wood; he was often more dramatic, than articulate, and he’d played courtrooms in Tucson many times before. From the lectern he flapped like a seagull and he was sometimes rather *gauche*, the kind of man who worried aloud about farting in court, and sometimes yelled out to attractive women when they entered, as though he’d spent the night with them, with a winking leer, “have a good time last night?” His delivery was that of the stand-up comedian. “Gotcha,” he would point out was the prosecution’s way of expressing they had good evidence: “Gotcha...gotcha,” he repeated to the jury, to show the prosecutors were more interested in convictions than the truth.

He was the epitome of the urban standup wiseacre, and probably as smart as any cliché or racial epithet which tried to sum him up. Conceivably, the Defense might have done better without his services. When I asked Hirsh if he thought this was so, he said: In contrast to his second lead, James Borsnahan, also *pro-bono*, from the major San Francisco law firm, he seemed fanatic in his new role, a loud mouth. Hirsh acted as though genuinely irate when he told the jury about the \$18,000 the government paid out to its informant, Jesus Cruz.

Hierarchical distinctions among the Defense team broke down during the trial. The 12 lawyers and their defendants caucused together often with much back and forth. They rehearsed every major address to the court publicly the night before. It was at the suggestion of the

defendants that they did not take the stand in their own defense, on the theory the prosecution had not proved its case.

Some press referred to Brosnahan as Polonius. He was Boston-Irish and addicted to blarney, sounding sometimes like a Harvard moot court debater, and sometimes a bit like a Dickensian lawyer of eloquent misapplications of language to sense. Of the prosecution's chief witness, the dubious Mexican undercover cop, Cruz, for example, Brosnahan declared, "The audacity of this witness seemed to have no bottom.

Brosnahan, who made much of his courtly manner and his humility before the court, always included the fact that he could speak no Spanish to his client, the black-garbed pious widow Maria del Socorro Pardo de Aquilar, of Nogales, Sonora, who undercover cop Cruz had moved with rosary recitations.

Hirsh made almost as little of the fact that he could speak Spanish, and used it when he had to, in understanding witnesses, and putting Central Americans at their ease. But Hirsh was essentially a creature of alienation, diaspora, Galut, with his hip clothes, and bits of Yiddishkeit and quasi-spastic Jerry Lewis manner beneath which lurked a man of cunning, and fierce competitive intelligence.

Where Brosnahan seemed civic-minded, called himself "a dynamic democrat," and lived in Berkeley with his wife, an elected magistrate, Hirsh seemed to favor more the flirtatious life style and prize fights in Las Vegas, and joined with the other defense in referring to Judge Carroll as "Judge Moniser."

Believing in the prophetic dream, James Corbett had habited himself to a certain modesty, and poverty; he made frequent trips to the refugee camps in Chiapas and the detention

center in the Sonora prison to advise Central American refugees of their legal rights and to caution them about the INS. Corbett knew Spanish as well as Hebrew. He now surrounded himself in a tiny office near the University of Arizona behind a stair in the American Friends Source Committee building with word processors and printers, duplicators and stacks of broadsides, like a 19th Century radical, turning out brilliantly argued, discursive theses, and tracts.

Over the last five years, in his self-publishing writings and talks to Sanctuary groups, he envisioned the “torah” work of his friends and himself in showing mercy to refugees as, “churches simply deciding to be the church.”

Sometimes he sounded himself like an Essene hippy prophet denouncing materialism and crass acquisitions; sometimes he attacked the lefty life styles of some as “Che berets” and “worry beads” which did not deter the “war machine.” But his most persuasive polemics were based on Hebraic concepts:

“Many of us trace the history of our congregational faith back to Sinai, and voice our allegiance with the SHEMA.”

“By covenanting to become a community that hallows the Earth, congregations enter into this prophetic faith that is expressed by service rather than belief or ritual....”

As recently as 1985, Corbett wrote: “Sanctuary issues are not new, they are fundamentally prophetic...addressed to and by the prophets.”

The jury acquitted Corbett for his sincerity but convicted his co-leader and co-defendant Fife of the same conspiracy, by simply going down the elements of the charges and matching them up to the seeming evidence of his actions: Being in the presence of Cruz, or INS Agent Nixon, to be taped, viewed, set up – these acts were the evidence of transgression.

Adumbrated with skepticism, the mind of James Corbett peered through his frail, pain-twisted body from various corners behind the Defense tables as though bearing witness to the wickedness of ignorance. He was usually calm, quiet, like a prophecy that is never uttered, and did not engage in theatrics. Bestowing mercy was no crime. The other defendants alternately declaimed against the Law, and the Court, or were defensive about their acts, in view of governmental policies not of their making.

Steven Cooper, Corbett's attorney, was an immigration law specialist from St. Paul, Minnesota, who rarely voiced ideas larger than a quibble before Judge Carroll, and seemed, consequently, less affected by the Judge's high handed defensiveness. When he would cite the law, or correct procedures, he sometimes earned Carroll's "pardon me."

He carried his tall flaccid body with the air of a man who was just about to make his exodus from a defense team which seemed to regard him with insufficient deference. He stayed on and saw his client vindicated. Cooper sometimes spoke with a flat absent air, a certain studied vagueness of intent, or distractedness. This also had to do with the less than central position he'd been placed in around the Defense tables. When Cooper rose to address the court, Carroll had to turn his chair sideways to face him. Unsure of the Judge's attention, Cooper seemed almost deferential. "I won't waste any more of the court's time, your Honor." Carroll and the jury may have actually confused this for respect.

Cooper represented Corbett as one man in a selective prosecution against whom there was no real evidence, aside from thinking, advocating, trying to persuade others that the aliens were refugees.

The aliens (refugees) were actually seeking to flee into the belly of the great whale of the USA, a marauding imperial leviathan in their views, which had dominated them as people, as nations, for two centuries or more; and the whale was capricious about permitting “Sanctuary.”

(Here all analogues to Nazi Germany break down.) The refugees couldn’t swim to Russia and they didn’t want to, and Cuba and all the other socialist bloc countries were not in any position to offer opportunities. One could say brutal circumstances had squeezed them into the odd position of seeing their enemies as their only potential friends, for their putative “friends” (and self-proclaimed liberators from the Left) were all part of the same murderous societies they were being forced to flee.

As the Nicaraguan poet Ruben Dario observed from Costa Rica a long time ago: “For the hour of the rehabilitation of social justice to be sounded...the spirit of the lower classes shall embody an implacable future vengeance...I call myself Juan Lanas, and I don’t have a dime...”

Of the 70,000 “refugees” admitted from all over the world in 1983, a bumper year for political murders, according to Americas Watch, only 3,000 were from the other Americas, and not a single Guatemalan. A border patrolman told me once, “mules and aliens always try to enter the U.S. from the bottom.”

INS attitudes toward Central Americans were, at best, invidious. Even anti-Communism has not always prompted us to be generous toward such refugees: until recently, Nicaraguans who applied for political asylum in the U.S. because they had a “well-founded fear of persecution” from the Sandinista government were regarded as economic refugees and rarely given license to stay and work.

That Tibetan lamas can enter the U.S. to serve at the Naropa Institute in Boulder, Colorado, as drunken orgiasts, with a lot more facility than Salvadorian labor leaders, only goes to prove that “choosing life” is still not the way of the “gentiles” in our government, and that all men remain Jews in their imperfect relation to divinity, to their churches, to government.

All men are Jews also because, as Auschwitz survivor and Sanctuary supporter, Eli Wiesel, has pointed out: “Adam was our grandfather. And Adam was our first refugee...” “No human being is illegal,” he has said.

Of the 13 counsels for the Defense, four were from Jewish backgrounds. The 11 who were tried were all gentiles, including two Mexican nationals who stood trial voluntarily to clear their names. One of the priests from York Pennsylvania, Father Tony Clark, of Sacred Heart Church of Nogales, Arizona, was on “loan” from the Roman Catholic Diocese of Davenport, Iowa. The women were all under forty, except for the widow Aguilar, and the men, except for Corbett, were an outgoing cheery lot. In his spare time, the Rev. Fife drove a pickup in the desert and hunted for quail. Father Clark was an amateur boxer who wore a satin club jacket with his name emblazoned on the back over his clerical shirt; he was said to be very good with delinquents and orphans, and young boxers. Peggy Hutchinson studied Arabic in her chair at the trial in her spare time; and Wendy Lewin blushed and became embarrassed when a Guatemalan woman she’d befriended told from the stand how she turned white and sick when the woman was given serum as an emergency medical procedure during childbirth.

Nena Macdonald had two small children with thick blond thatches and a husband with a golden beard. One of the Rev. Fife’s two grown sons was studying “law enforcement” in Phoenix. They were not a stereotypical crowd of “rad” defendants. If you said something

critical of their behavior they would try to pass it off with a grin, but then stare at you hard a moment, as though you were a sauce being reduced.

The indictment brought against Sanctuary was heavily dependent on information gathered about them by two undercover operatives who were themselves “criminals.” In the words of Ellen Yaroshevsky, co-counsel for the Defense from the Center for Constitutional Rights in New York, the prosecution in the indictment, with the help of its felon informants, looked at the acts of helpful people with “crime colored glasses” – which was like souring sorrel to make Tschav.

For Special U.S. Assistant Attorney, Don Reno, a transplant from Illinois, who had conducted the year-long “Sojourner” investigation from its inception, this also meant a constant squaring of his shoulders as though confronting his mental as well as physical superiors by duking it up in front of them. Reno squared his shoulders above his tiny muscular frame as often as some horses snort and break wind when they are being hot walked by an exercise boy.

He had an intelligent equine face, a huge brow, a severe mouth. He was always wiping the sweat from his brow with a damp hanky. A former saloon keeper for the college crowds in Phoenix and Champaign, Illinois, Reno managed to make himself look as sleazy as a hit man, or a punchboard deacon, in his dark suits, white shirts, and nondescript ties. He drove a sleek black Porsche 928, was a graduate of Illinois Wesleyan College, a former 150 pound football competitor; his early career in the law had been noteworthy for his representation of certain “porn” theatres in Phoenix on Constitutional grounds.

As every scoundrel knows, government and crime offer equal avenues for advancement. When the Tucson office of the INS refused to call for indictments as a result of his “Sojourner”

investigation, Reno brought it all back up to Phoenix and got indictments. Some people were now saying he might someday run for Congress.

Reno's ambitions were his character: in victory, he reproached the press for "bias," and stated that governmental policy had been "vindicated" and the defendants were no doubt well-intentioned, though "misguided," which was very different from the approach he used in court to metaphorize the Mexican defendants as "the Nogales connection" in his opening remarks, thus analogizing them to the heroine smugglers in the movie "The French Connection."

Whether all Jews were men or all men Jews was surely not the sort of questions this small mannered man had ever asked himself. (Prior to his special INS appointment.) In Phoenix other lawyers properly regarded him more as a businessman than an attorney. "I never saw him do anything where a buck wasn't involved," one Phoenix colleague pointed out, self-righteously. As though the court were a Rotary lunch, he made sure to introduce his dowdy wife to the Judge out loud and publicly the first day.

Reno called himself a "fundamentalist" to the press, and attended a church in Phoenix pastored by the son of Billy Graham. His characteristic exercise was the variety of push-up called the sit up. He did at least a hundred at a clip in the very early mornings at a local Nautilus Club before going off to court, and he apparently earned the enmity of his one assistant, the Spanish-speaking Miss Joan Grabowski, by introducing her to the court and jury with a compliment about her good looks.

Like some New Testament Pharisee, he stuck to the Law, most of the time, except when he tried to insinuate that Sister Darlene Nicgorski, whom he tried and convicted on five counts, of the School Sisters of St. Francis of Milwaukee (a woman who had witnessed at first hand the

work of the assassination squads in Guatemala) was a “fake nun.” In the early days of the trial, Reno steadfastly refused to refer to the sister as “Sister.”

When he tried to show that Corbett “was well-known in Mexico by Mexican authorities, not only for his illegal activities, but also for his activities in smuggling aliens,” Corbett’s attorney pointed out that no evidence had been introduced to show his client committed crimes in Mexico, and asked for a directed verdict of acquittal. This would have substantially damaged the conspiracy charge against all defendants. Ever legalistic, Judge Carroll asked Reno to provide him with ‘citations’ from legal doctrine showing why it was permissible for a prosecutor to allege crimes that were not charged in the indictment, but the conspiracy count stood when the jury went in to deliberate and acquit Corbett as they were convicting others.

The Law, Reno argued, with cool and winning simplicity verging on a sort of imbecilic sloganeering, was sacred and inviolable to human beings’ intentions, good, or bad, “misguided” or not, and could not be gotten around. The mosaic he tried to affix to the wall of the Court with his charts and insinuations was anti-Mosaic. Throughout the trial, he insisted, there was “nothing unfair” about U.S. Immigration laws which seek to monitor who comes in and how. He even upheld his own use of felons with “body bugs” to gather evidence inside the Sanctuary movement, in churches and private residences and conveyances, by calling one of his two principal informants “reliable, responsible, impeccable....”

Reno had his own political cues provided by the likes of his superiors in Washington, such as Deputy Secretary of State for Human Rights, Eliot Abrams, who, in a private meeting with the Reverend Fife in the Spring of 1984 insisted he was really not that worried about the Central American refugees, whom he insisted were only “economic refugees.” What if there was

a Revolution in Mexico – Abrams wondered aloud: Would the U.S. have to admit all 80 million Mexicans as “refugees”?

In the final analysis U.S. fears about the brown-skinned masses below the Rio Grande seemed really what was behind the Sanctuary prosecutions and for that reason customary INS practice and law sent men hand in hand against Latino applications. Nevertheless, the refugees from Central America, if they made it to the border of Arizona, were facing deportation to their home countries of El Salvador and Guatemala and a very real possibility of “persecution,” of being tortured and murdered on returning home. Those who had been apprehended by the government and compelled to stand as witnesses for the prosecution for its case continually risked “contempt” by being unresponsive:

“I invoke my rights under the Fifth Amendment, and my fear of being deported with my children, and of being accused in a criminal case in El Salvador. Therefore, I refuse to answer....”

Q: Do you recall who transported you...?

A: I invoke my rights under the Fifth Amendment....”

A few weeks later, when defense attorney A. Bates Butler was summing up, he asked the jury the question: Where was one of the government’s reluctant witnesses now? Today? A former U.S. Attorney, Butler was familiar with both sides of INS practice. He referred specifically to a Salvadorian teenager from the battered and besieged city of San Miguel, who was going by the alias “Silver Palacios” in order to protect relatives in El Salvador.

“Where is Silver Palacios now?” asked Butler in a fine thin quavering voice. “Where?” As though to jog the jury’s memories of the dark passive brooder who sat on the witness chair and kept repeating, “No recuerdo,” (I don’t remember).

When he testified “Silver Palacios” already knew he was going to be deported. Asked if his reluctance to speak, and sudden lack of memory, was because he was feeling ill, he told the prosecutor, “A prisoner never feels fine.”

Defendant James Corbett was of a modest disposition toward his fellow men, did not believe it was incumbent for a caring and merciful person to participate in a drama of such magnitude as bringing forth new immigration law from the Sonoran Desert. Good enough to be only as human as one really and truly was. So he was apt to quote Buber-esque Reb Zusya: “On the day of judgment I won’t be asked why I wasn’t Moses, but whether I was Zusya.”

Judge Carroll was also finding it hard to ascertain if, indeed, he was the Judge Earl H. Carroll of the Federal District Court, Phoenix. He presided over the trial as though constantly asserting an authority he was unsure he could command by his presence, remarks, or decisions. “Earl should have demanded a severance,” a Judge friend from Tucson told me, “and tried the cases one by one. This way he’s really got a show on his hands.”

While insisting that crime had been committed somewhere between Tucson and Cananea, Sonora, which not even good motives could absolve, the Judge came to seem more and more a buffoon through his various orders to the Court: that the Refuse lawyers could say kill occasionally, but not “torture,” press would be barred from conducting interviews in the courthouse, even in the press room, for example, which was later superseded by a verbal order to

the bailiff that I should not be admitted to the press section as I was a writer of books, and therefore not a member of the media.

Judge Carroll took such easy offense at the jostling he was receiving from the Defense that once, after a heated bench conference, he pushed attorney William Walker who had been one of his prime needlers and, later, apologized lamely. Who knows if he truly believed the defendants were guilty in advance of the trial? He certainly believed the U.S. Code had been violated and violating the U.S. Code to help refugees was a crime. That was priggishly correct, in so far as it went. So all the jury had to do was consider every bit of putative evidence, gathered by scoundrels, often to entrap. The Judge was continually accusing defense lawyers of manipulation, contempt, seeking to “manipulate a mistrial,” paving the way for an appeal by getting him to show “bias.”

He seemed to regard his worldly success as the other end of the seesaw of crimes and failures of the “undeserving.” He socialized with plutocrats such as the Phoenix Snells, whose daughter Karen served as an attorney for the Defense. He was also said to be politically on good terms with defendant Mary Kay Doan Espinoza’s father in Nogales, Arizona, a heavyweight politico and former mayor. (She was one of three acquitted of all charges). “Let me say this,” he was always declaring dryly, when denying still another defense motion for his recusal: “Now ladies and gentlemen, let’s proceed.”

Carroll had sacrificed a lucrative practice for the honor of becoming a federal judge. He was very fond, for example, of challenging the Defense with whimsical “hypotheticals” such as, if you had two Central American aliens on your hands and invited them to have a meal with you at “Chez Luis,” a premier Phoenix bistro, would that mean they came “willingly?”

His chin suspended over his upright gavel, the Judge condescended alike to everybody: The Defense was only there to disprove their guilt; the press were only interested in making him look bad; the jurors could not be allowed to highlight his instructions with magic markers.

The extent of the Judge's bias is revealed in a verbal mistake which mucked up his mouth in the final days of trial. With his usual aplomb of interrupting the Defense while allowing the prosecution enough rope to hang a few people, Carroll delivered himself of the announcement that he would, of course, instruct the jury "lawful behavior" will not be a defense in this case."

The Defense was startled.

The Judge did not immediately correct himself.

The following day attorney Mike Picaretta made sure to draw parallels for his colleagues, as new motions for recusal were made, by comparing the scene to a "Chicalino" *shtick* in the Marx Brothers films. Prosecutor Reno said he personally liked the instruction. Now Carroll apologized for his slip: Lawful behavior was, of course, an adequate "defense" to charges of "conspiracy," "harboring" etc.

The Sanctuary investigation did not commence until after the Reagan election victory of 1984.

The general counsel of the INS, a former personal injuries lawyer from Beverly Hills, was very active in the Sanctuary prosecution and appeared on behalf of the agency before the media, as though it were a "lark," or war of a sort. Asked why the INS was anxious to investigate Sanctuary, Mike declared, "They broke the Law."

In his parable of Abraham, Franz Kafka, asks, what does it mean to be called as Abraham was said to be by the Lord?

He illustrates with a parable within a parable of an award being given at the end of school for the brightest boy in the class and the dumbest boy gets up and receives the award and is hailed, called, as it were, like the Judge to preside over a trial as far above his head as the sometimes snowy Catalina's looming to the north of Tucson.

Though many in the Southwest do not regard the border fence to be a real and effective barrier, relatively few Anglos in a city such as Tucson speak Spanish or know much of the world below the fence except as the landscape of poverty and sleaze, a plague zone.

Judge Carroll would not permit defense attorney Risner in summation to explain the significance of "the brown-skinned virgin of Guadalupe" for Mexicans, north and south of the border, to the Tucson jury, even though Risner represented a priest who served in Nogales, Mexico at the "Sanctuary of our Lady of Guadalupe," and the virgin is a symbol of "Sanctuary."

Like loneliness, holiness is a state of mind difficult to escape by acts as deliberate as self-mutilation.

"If I forgot thee O Jerusalem," is the lament of the refugee in the desert of precarious exile: "May my tongue cleave to the roof of my mouth...."

In "El Norte" (by the waters of Babylon) reluctant Central American aliens told the prosecutor when asked the names, on direct examination, of those who helped them across to Arizona: "I can't remember."

Reno in his summation labeled this the "no record memory lapse defense syndrome."

He deliberately mispronounced the Spanish word "recuerdo" to sound like a rube: "no recordo...no recordo..." As though to suggest he would have to truck with the alien, with strange foreign-sounding words, or a feigning servility before this Anglo White venue.

(“If we see our brother in need and we respond to the best of our understanding,” wrote Corbett, as though there were also an interior desert to be crossed,” a way leads through our delusions to genuine communion.”

Despite the convictions, Sanctuary vowed its missions of mercy across the desert would grow.)

“Would you have any trouble,” attorney William Walker asked the jury just before the prosecutor’s sur-rebuttal (in which the Reverend Fife was reproached for being taped by an undercover operative while uttering the word “bullship). “Would you have any trouble...if Anna Benavides (one young Salvadorian who had been sheltered by Sanctuary were Ann Frank...?”

If Ann Frank could now be construed as Anna Benavides that might mean all the blood shed over the decades was the ectoplasm of spirit and precious to our bodies through which it coursed. But Anna Benavides as Ann Frank may just cause offense to some Eurocentrics. It means simply that 45 years after Auschwitz, in the deserts of Sonora, human suffering was sometimes redeemed by human acts, and sometimes – as with Ann Frank of Holland – allowed to result in another death. Shortly after the verdict was in, the Rabbi of the largest Reform synagogue in Tucson declared publicly that what was going on in Central America was a “holocaust” which decent people, Christians and Jews etc., were obliged to struggle against.

Two Republicans, seven Democrats, and three without party affiliations comprised the jury. There were nine women and three men and they ranged in ages from 25 to 47: a forewoman with one year of law school employed in government service, a Pima Community

College student, a musician, a bookshop clerk; the wife of an Army enlisted man at Fort Huachuca, a cafeteria worker....

Their ordinariness was never in question. Like nearly everybody else in that part of the Southwest, few were native to Tucson. Only one was part-Mexican, no Jews, no blacks, no Papago Indians.

“Thank god for this jury,” Reno admonished the press afterwards.

He also implied that Sanctuary was doing more than helping refugees by publicizing a photo, of earlier provenance, of Sister Darlene Nicgorski with some Salvadorian insurgents.

For eight days, from 9:30 to 4:30, this jury met to decide, in effect, that James Corbett’s redemptrist Hebraic vision of the Christian mission, though it had enlisted the support of 300 churches nationwide and the Governor of New Mexico, was still not everybody’s potsy game in the interstice of Tucson and nearby Sierra Vista. Corbett was acquitted for a lack of solid evidence, but six were convicted of the “conspiracy” charge, and sister Darlene Nicgorski, guilty of five counts in all, now faced up to a 25 year jail sentence.

(The highly partisan courtroom and the Defense were expecting exoneration.) Even the hour before they were notified the jury would be coming back in with a verdict. Anger and hurt quickly superseded their startlement. The normally poised Karen Snell, who’d not been beyond viciously criticizing her associate Brosnahan to others in the press as an incompetent and a stuffed shirt, broke down and wept at a hastily convened prayer service alongside the widow Aguilar.

(In Numbers we are told Miriam and Aaron spoke against Moses because of the Cushite he married...They said, “Has Yaweh really spoken only through Moses? Hasn’t He also spoken through us?”

Yaweh heard. But the man Moses was very patient, more than all men on the face of the earth.

Suddenly Yaweh spoke to Moses, Aron, and Miriam – “Come out, you three, to the tent of meeting.” Then Yaweh said “My slave Moses... in all My house he is faithful. Mouth to mouth I talk with him plainly and not in dark sayings.”)

Acquitted James Corbett spoke of “deep seated religious traditions.”

The process and its outcome in Tucson seemed to demonstrate, though, that the only purpose of a trial is to convince a jury; the jurors found no evidence to convict Corbett (did he speak to God “mouth to mouth?”) and they found overt acts against his co-founder the Rev. Fife. “It wasn’t just haphazard, “one juror told me. “They planned things.”

She also said the jurors found Fife “smug” and his attorney Hirsh “too flamboyant.”

“But we convicted on the evidence.”

And they never knew they could disregard the instructions of Judge Carroll because the Defense, like the prosecution, found themselves arguing the evidence. “We never got their messages,” she said.

(Outside the jury’s presence, the Defense was often inflammatory; speaking to the jury they were forced to argue their clients had no interest in breaking the law. “There is no criminal intention,” said James Brosnahan. “What we are talking about is the Law.”

“I would hope my argument was prejudiced and inflammatory,” Robert Hirsh told Judge Carroll when he was interrupted during summation: “That is what closing argument is supposed to be....”

The Judge nevertheless censured Hirsh and, “You can argue all you want to, Mr. Hirsh....”

With the jury excused, the Defense was considerably more provocative, especially toward Judge Carroll who was perceived, correctly, I think, as their adversary: “...The perversion of Justice that has occurred in this courtroom when your Honor sits here like a stump and does nothing about it” (William Walker, Attorney).

Out of ear shot of the Judge, but within hearing of the press and the gallery, the Defendants and their attorneys went beyond unkindness, making such inflammatory remarks as “the most blatant example of institutional racism since the 1950s” (Fife, on the Central American witnesses who were put under “house arrest” for not testifying as the prosecution required of them).

An American jury has unlimited sovereignty, though this jury did not seem to know it. The Judge and Prosecutor instructed them to follow only the evidence, and the Defense could not openly preach that they let their own consciences guide them, for fear of being cited for contempt. The jury forewoman was a born-again Christian.

Sometimes we dream ourselves awake. The Jury tried not to doze, but legal rhetoric in large doses can have the effects of Seconal. They tried to keep themselves awake by taking careful notes on the evidence which in this case was like swallowing chloral hydrates as an antidote to Seconal.

There would, of course, be an appeal to the liberal 9th circuit court of appeals in California. Judge Carroll had forewarned he did not care if the Defense won on appeal, just so long as he controlled what took place in his courtroom.

It was May Day afternoon. The Russians had a runaway nuclear generator spewing radiation in a plume across Northern Europe. The American Liberal-left had suffered another “stunning” defeat. The Government’s political trial of Sanctuary had made its case a lot more efficiently than Sanctuary’s political trial of the Government – because of the efforts of a helpful Judge.

One of the jurors later pointed out to the press, if she had known she did not have to follow Judge Carroll’s instructions she probably would have been ruled by her sympathies for Sanctuary.

“I knew Judge Carroll was biased against the defendants,” another juror, Linn Cobb, told me. “And I said so right at the beginning of our deliberations. But Mrs. Shaefer (the forewoman) said: “Do you believe he could get away with that with all those lawyers for the Defense?” One account has it that Defense researchers had accepted Mrs. Shaefer on the jury panel because they thought she was the Mrs. Shaefer who recently changed her registration to Democrat, but there were two Mrs. Shaefer in Tucson and this was the wrong one.

Juror Linn Cobb also told me there was almost a “hung jury” over the conspiracy convictions which were voted on last. She held out, and so did others, because “I don’t believe we could show there was a plan to break the law. They believed they were following the 1980 immigration law very carefully....”

“It was finally the overt acts,” she pointed out. “We didn’t like some of the defendants and the lawyers and for others we had great sympathy and knew they were sincere and we believed Mr. Reno he was sincere too...But we found facts in our notes and testimony to back up every charge...and the forewoman she said she had done this before and she dominated us...and she said we would have to follow the jury instructions and we had to follow the Law...”

“Maybe they ought to change the laws for refugees,” she added, “all I know is I was asked if they’d broken the Law and we found they had...”

The verdict was not for the stranger: a difficult judge, a born-again forewoman who’d nominated herself, a tricky prosecutor. It all reminds me of a Navaho tale from the Southwest by Leslie Silko about a woman who was seduced by folklore: The man said he was a sorcerer and she was his Yellow Woman.

“I don’t believe it. Those stories couldn’t happen now.”

“He shook his head and said softly. “But someday they will talk about us and they will say, ‘Those two lived long ago when things like that happened.’”

Chapter II

THE DESERT SOUTH FROM TUCSON

“But betrayal of conscience” is a catch-phrase that usually leads to confusion. It is not the health of something called “conscience” that is at issue but the victims of socially-sanctioned brutality and injustice.” (Ibid James Corbett (“Goat walking,” p. 26))

“Beware of all gurus, messiahs, and liberators. Those who think they follow another’s vision are herded by his demons.”

“A small group of people who have mastered goat walking can simply vanish, since their life support is mobile and is also independent of the governmentally-monitored commercial system....”

By 1984, James Corbett had brought according to one estimate, 700 Central Americans across the great Sonoran Desert, “Ancient witness to other outlaws, other refugees,” and over the U.S. border to safety.

He sometimes followed trails used previously to export draft evaders to Mexico during the Viet Nam War.

So much courageous activity now, on behalf of the refugees was necessary for Corbett and those who collaborated with him because, in his words, “we had all become aware that a full-scale holocaust was going on in Central America.”

He became a habiru, nomadic wanderer, enslaved by himself to the cause of others’ liberation, and liberated chiefly by his own actions and disregard for the “prosperity ethic.” With such earnest he believed, as Leviticus, that “The Stranger who sojourns with you shall be to you

as the native among you, and you shall love him as yourself, for you were strangers in the Land of Egypt. I am the Lord your God.”

Corbett now deliberately referred to himself as “Jewish,” though he admitted he was never really a Jew, in that he remained an unbeliever in Monotheism etc. per se.

Personally, Corbett wished to return to a pastoral and nomadic existence. The white world, he believed, was consuming more than its share of worldly goodness, laying waste to resources, despoiling, killing off, and giving back only a feckless and, ultimately, impoverishing technology, giving back death.

He was a believer in new communities, in nomadic prudence, freeloze bonds maintained by cohesive small bands modeled, in some ways, on the diggers of 18th Century England. Corbett was a true believer in love as the basis for community.

Corbett’s bawdry was more innocent and lame than tawdry. It was strenuous and Acadian, full of nymphs and satyrs. He saw – as the Greeks did – human sexuality as goat-footed and nomadic, but also found the goat a practical companion for his desert excursions, one source of much provender and trail knowledge. He knew a great deal about the various uses of goats and their milk; and was an advocate of humane slaughter for those who remained flesh eaters.

The strangers who were seeking Sanctuary across our borders were all from the third World we were busy despoiling, all more or less poor, dark, and unwanted, living at the edge of a hazardous epoch that was “terrible, but poetic,” in the words of the Nicaraguan poet, Ernesto Cardenal. They were the authentic habiru, vessels seeking mercy. It was the period of the Guatemalan government’s murderous campaign against its own Quiche and other Indian

populations in which more than twenty thousand perished, and, according to Guatemalan writer, Victor Perera, in his memoir, RITES, the streets of some parts of the capital were inundated every morning with between 15 and 20 corpses. The activities of d'Aubuisson's Salvadorian "death squads" were also most wide-ranging at the time, and as one observer put it, "The Army itself had gone mad with blood."

"Mano Blanco es la muerte," said a graffiti notice in the Guatemala City airport which I was passing through on the way to Nicaragua: "The White Hand Is Death." All around were men armed with Israeli submachine guns, steel helmeted beneath the intense sun glaring in from glass windows. The Customs official noted where my passport indicated I was a journalist and ticked me off against a computer list of political enemies of the State. "If you like Nicaragua you won't like this place," he told me.

Not caring to confront that assumption publicly, I left that city and country as quickly as I could. But Corbett, who considered himself a non-violent witness, kept returning to the Mexican border with Guatemala to the camps of the refugees which were like pens to keep the nomads herded together for deportation by armed and hostile guards. He still believed in the rule of love, in the peaceable kingdom. "Only a people can stand at Sinai," he wrote, after one of his excursions to the frontier at Chiapas, "Peering backward across the desert..." His aim must be, he insisted righteous conduct, to serve "the peaceable kingdom."

The peaceable kingdom for Corbett was many things, "A liberated undivided Eros", a free kingdom of love, pagan, innovative, free, adaptive, (as the Latin American base communities of Christian heretics and refugees), with a strong sense of social sin; and the strongest social sins were afflicting death and suffering.

Corbett knew from earlier goat walking experiences that it was not hard to escape detection for long periods of time in that part of the Sonoran Desert. But he also knew there were perils for the refugees. Between Tucson and those death-trap US satraps of El Salvador and Guatemala, was a trek through terror, and endless anarchic forces playing out against a landscape of wild and desolating beauty.

The refugees were leaving the war zone to enter the territory of the bandits. Mexican officials were at least as corrupt and autocratic as those in the States. They also had even fewer checks from above to keep them in line. "It's no concern of anybody's if you die there," one refugee told me, "and nobody will even think to ask why."

In order to survive and make their ways North, the refugees were dependent on an underworld of thieves, and pimps. Women were often coerced into prostitution, families robbed of their most meager possessions and funds, whole families exploited in return for sustenance. These were the people Corbett now sought to protect, for "to write off anyone is to write off the Kingdom itself."

"We crave survival, not sacrifice," he declared. "We want priests who preach an end to death..."

Often, in those years, the creeks and rivers between Guatemala and Mexican Chiapas, according to one eye witness, were afloat with bodies. One migrating Indian family reported, "When they arrived at the Mexican border they had to cross the river at a treacherous point where a narrow footbridge spanned...helicopters patrolled...exciting the children to near hysteria. Five fell into the muddy waters and were swept away."

"It would be quite good cow country," Corbett, who much preferred goats, reflects, with his mix of countryman and sage, "if people didn't have to suffer so much for it."

Later he visited one of the most frequently traversed bridge sites across from Guatemala. “When I wondered about the risk of being killed, they said, in common with everyone else, there’s no problem, if you don’t get involved with politics.”

Corbett seemed to understand that to be a refugee was to be most precarious of all, virtually without protectors in Mexico or the U.S. Your host, the State, is also – as in some parts of Nature – your chief predator. At any moment you may find your status changed, or worse, if you are illegal, noticed.

Corbett knew a great deal about Sonora, Chihuahua and Sinaloa to the South. He’d always sought out people rather than scenery; priests, refugees, cowhands, politicians, healers, ‘coyotes,’ even politicians and racketeers, as well as prostitutes. He was not xenophobic about the giving of mercy. Early on, he was made aware that seemingly better economic conditions existed for some of the refugees if they could remain in Mexico – because standards of living were lower and low status jobs somewhat more available – except that the Mexican Government did not want to accumulate a population of politicized aliens either; and it was only allowing most to stay on three or four months while they sought refugee status in countries such as Holland, the U.S., or Canada; and others were being deported to Central America, with the U.S. government subsidizing the government of Mexico 150 dollars a head.

So Corbett and his friends continued to bring as many refugees over the line into this dry world of the south Sonoran Desert as Sanctuary could manage with limited energies, personnel, and money for supplies; as of May, 1986 about 15 a week from Central America were being helped, and many were screened and were not helped. Corbett seemed well aware, as the late Joseph Wood Krutch wrote in “The Desert Year” that “out here...there is no congestion.”

Corbett was also aware that “compared to the sacrifices being made in Latin America and to the dangers faced by captive refugees, the risks we are running are insignificant....”

The refugees who made it through Central America to Mexico always had to be as canny as those creatures with eyes set in back of their heads. They would call as little attention to themselves as they could, and often they tried to carry provisions with them, or live off the land. One I met picked apples during the season near Chihuahua City and said he left with a bag of apples and ate nothing else until he was in Arizona. “I lost a lot of weight,” he pointed out.

“But I was basically ok. And I don’t think much of apples as food anymore whereas in El Salvador people used to sell them on street corners as a wintertime delight.”

There were numerous check points to be avoided in Sonora. On those sterile plains, with the sun blazing brightly, and little shade to protect them, one dubbed himself “javelina (a nocturnal wild pig)”.

In the open countryside of Mexico resources are scarce, and the traditionally predatory functionaries of the Mexican rurales, horseback or motorized, glean from their jurisdictions, and importune all strangers; “No papers. You come with us.”

Sonora itself is fairly vast and still unknown to most outsiders, such as Yankees, who pass through in a hurry on the way south. Bootleggers of mescal, contraband, and drugs are numerous. It’s still beautifully uninhabited in large areas, even to where it touches the emerald green inland sea of the Gulf of California.

Mexican law is designed to make it impossible for Yankees to own land; they rent on lifetime leases, unless they can bribe somebody else to take title for them. Mexican official corruption finds ways to grant indulgences in the form of stand-in owners, pretenders, as it were.

The fine vacation homes along the Coast near Cholla Bay and Guaymas and Bahia De Kino are built with Mexican labor at Mexican prices for well-to-do Americans who smuggle in dollars as payment; and they are often guarded by Mexican thugs with automatic weapons.

Sonora is an old part of the New World. There are elegant 17th Century cathedral cities such as Magdalena and Caborca, which were established along the silver route to Santa Fe New Mexico by the Spanish missionary priest, Father Kino, and many smaller chapels and respites still crumble abandoned in its small dusty towns and crossroads along the principle North-South routes, way stations in a world of dust and sun. The town of Alamos is peopled by many Mormons who wandered south across the border around the time Brigham Young was founding Salt Lake City. It's said to be an area of intensive marijuana cultivation, though the Mormons, as with the Mennonite settlers in and around Cuatemec, Chihuahua, are mostly prosperous as ranchers and merchants.

Japanese were imported in the last century as farmers and nearly every town of any size has its "turco," (Lebanese) trader. But the population is generally Indian and Mestizo. Poverty-stricken Naco, Sonora, once received a visit from President Lopez Portillo of Mexico, and gained a factory to compensate for its abandonment as the brothel of that part of the border. A whole block of garish polka dot decorated tavern and estaminet buildings used to offer service to the copper miners of nearby Bisbee, and the soldiers from Fort Huachuca.

Sonora's capital, Hermosillo, deep within the land mass, is arid, baked, elegantly spacious, low, seeming as though it had been scooped out of brown mud in molds, like an outsized Puebla. It will shortly have a large new Ford motor car plant, producing economy vehicles for the American and Mexican markets which, it's hoped, will make them competitive with low-priced Japanese and Korean imports.

Between Mexican Sonora and Arizona the borderland is generally as empty as the Red Sea when it was parted. During prohibition Al Capone tunneled under it near Sonoita. The jack rabbits and stink beetles and horned toads are spectators to traffic from both sides of the border. One stands there in a void of utterance, under small puffy hot clouds: “Henayni!”

This desert was once sea bottom in places. The cattle know the watercourses. The feral creatures drink when they can. The large gooney looking saguaros – a head taller than most men – proceeding along this steep dry landscape in irregular tandems and trios, like the stanchions which hold high tension line, seem to mark ancient springs. “They are Indians too,” the Papagos say of the Saguaros.

Gary Nabhan, a writer who specializes in the ecology of arid lands, calls this a “slant tree desert,” of scrub mesquite and creosotes, red clay, burnt rocks, the westernmost ranges of the Chiricahua and Baboquiver Mountains looming always....

Indians drew on these rocks a thousand years ago, and their scratching survive, testifying to migratory paths along these desert washes and arroyos.

Alive with bird and insect life, with scorpions, mockingbird, quails, black widow spider, and numerous varieties of edible beetles, it offers the stranger an austere almost forbidding glimpse of arid eternities, yet neither plants nor animals native to this place live under what is for them really difficult conditions. This is not, and probably never was, the case for humans.

Temperatures often stay above 100 degrees. There’s an abundance of sun and too little rain. Somewhere, in these dry lands, a locked vanload of Salvadorians were abandoned to die of suffocation, heat prostration, thirst, by their fearful “coyote” escorts running from a border patrol. Arizonans were shocked and disturbed by the news, just as they were in another context by a gangland murder of Phoenix investigative reporter Don Bolles, but, after expressing

loathing of the whole business of alien smuggling, as they regularly do about organized crime, the seasonal needs of the large farmers and ranchers, such as White Wing, near Dateland, a Valley National Bank enterprise, made them forgetful again, and of a forgiving nature toward business as usual. (During the Sanctuary trial, Judge Carroll admitted owning Valley National Bank securities but would not recuse himself on “conflict of interest” grounds just for that.)

(Approximately 1.8 million “undocumented” now come across through Mexico to the U.S. every year by one means or another, according to the INS. They don’t mention, of course, that a very large percentage of these go back after earning some money.)

Memories along the border are not always long. A few years back, some Mexican laborers, crossing over, were tied up and beaten and shot full of pellets for trespassing by a family of local ranchers, who operated Dairy Queens throughout the State – the Hanigans. The victims got no justice locally, but, after much publicity, indictments were obtained in Federal court for interfering in “interstate commerce,” and convictions were won.

This was all headline news for a couple of years. Now, if you mention the Hanigan case, few people can recall what actually happened, though many are convinced Mexicans regularly come across the line to rob ranchers. More than one juror in the Sanctuary *voir dire* referred to those Salvadorians who perished in a locked van in the desert, with rueful grieving expressions, and one later recalled, after the Sanctuary verdict was in, that it was Defense Attorney A. Bates Butler, when he was U.S. Attorney, who prosecuted one part of the Hanigan trial.

In general, though, Mexicans and other illegals in this part of Arizona are regarded as dead weighted cargos in the eventual care of the INS who are wide-ranging, if not overly scrupulous. The aliens come and they go. Some of course are exploited, mistreated, get hurt, imprisoned, detained, deported, sign ‘voluntary’ deportation affidavits, or die. The border has a

pulse of human crossings and a certain violence, which goes along with it, is filed by memory to be forgotten. Who now recalls the black community which was shot up by local sheriffs outside Sierra Vista a few years ago? The politics of a border county such as Cochise are just as noteworthy today, as in the past for racism, suspicion, and violence. “The people so full of fear,” said Father Quinones of the ‘refugees.’

The U.S. Mexican border is over 1600 miles long, “another country,” according to journalist Tom Miller. When it cuts through Arizona, it follows the course of an old U.S. larceny, the sweetheart business arrangements called the Treaty of Guadalupe and the Gadsen Purchase by which Mexico eventually was forced to cede much of Arizona and New Mexico to the U.S. for a mere ten million dollars in cash. Then 31 million acres in Spanish land grants were stripped from Hispanic settlers by encroaching Anglos. The border was still in contention as recently as the U.S. Chamizal ceding in 1963 of 400 acres near El Paso back to Mexico, but for those who live between Brownsville, Texas and Baja, California the actual demarcation can never control their wanderings. Patrolled by the INS, alive with sensors, fenced whenever practicable, the border still is permeable to large numbers rushing across at twilight at once; some will no doubt always make it safely.

In Arizona it wanders through a number of large desert ranches, some Papago Indian reservations. (Most Papogos are on the U.S. side of the line, and even those 250 or so who remain in Sonora depend on the U.S. for medical services etc.) There are government installations, and a few small burgs such as Naco, Badger, Ali Cuckson (Papago for Little Tucson) and the aforementioned Sonoita.

“During the Nixon Administration,” wrote Corbett, “an operation was launched to close the Mexican border to drug smuggling. The border area was supposed to be under constant

aerial surveillance, coordinated by radio with units on the ground. At the time I happened to take a group of goat walkers into the mountains west of Nogales. We wondered how the operation was going and whether the federal units could track us down when they either saw us or else cut our tracks. After wandering around the area for about a week, during which surveillance planes failed to notice us and we failed to see any ground units, we concluded that, for all the equipment and manpower being budgeted, the border was not sealed very tight – a view that was confirmed by itinerant wetbacks.”

Dry landscape such as this is never altogether without special edible greens. A refugee assured me he'd chewed on the bark of the palos verdes. More suitable is organ pipe cactus, saguaro fruit, and prickly pear, the cholla, the wild fig, the agave. There are many varieties of edible hackberry in season.

Corbett, the Chivera, thought wild foods should be eaten sparingly, in small portions, to adjust the digestion. He favored milk and clabbered milk from goats and in his Utopian plan for a nomadic community one can get a sense of the man's reverence for the natural and the wild. He wrote of flavoring coffee with milk directly from the goat's tit. After laying out a series of rational instructions for the herdsmen and yoghurt makers, he declared breakfast should be served before the stars begin to fade and the sky takes on color.

It is as though the landscape itself were to renew refugees and *cimarrons*, who have turned their backs on civilization. The medicinal reek of creosote, in fact, imparted no renewed holy messages to those who were sore and weary. (Even in the desert some Anglos continue to search out “clean rest rooms” or local “blue corn tamales.”) Summer rains are often torrential; the rest of the year the sun bakes out color and the ground is as dry as a gellusil on the moon.

Where, some miles to the west, the Coast had been eczemed with fancy vacation homes and burgeoning resorts, the desert I've been describing didn't so much seem to end as fall off into the water, get inundated by an inland sea. But Sonora's most noteworthy population movements of late all seemed to have been in the opposite direction, northward bound, consisting of so many seasonal agricultural workers, legal and otherwise, for the farms of Arizona and California's Imperial Valley – and the numerous Central Americans.

James Corbett estimates there are as many as half a million Central American 'illegals' in the U.S. who do not turn to the INS because it bestows legal status with almost as much frequency as the Swedish Academy gives Nobels. Sanctuary visited the refugees when they were detained in the prison in Sonora, and brought food. The Salvadorians, Father Quinones pointed out in Court, were not used to food heavily spiced with chili peppers and they would be sick to their stomachs.

The refugees whom Sanctuary helped were from El Salvador, Guatemala, and, to a lesser extent, Nicaragua. In one much-publicized incident, Defendant Phillip Willis Conger of the Tucson Ecumenical Congress told a group of Hondurans they would receive no help from Sanctuary, but if they wanted to walk they should be sure to bring along a gallon of water.

Honduras is no bastion of liberty. Dissidents are often jailed, and there are occasional government killings. It is also hard to make a case for most Hondurans that they have a "well-founded fear of persecution." Even though there have been student massacres to put down demonstrations against visits by U.S. VIPS, such as the late Nelson Rockefeller, Hondurans are thought to be no more fearful for their lives than citizens of the Republic of Mexico, which has also massacred students and where the level of day-to-day repression in some parts of the country is very great. The opposition to newly devised, civilian, government from the left in

Honduras is small, still not very potent. With increasing U.S. militarization has come increasing surveillance and intimidation of its small leftist factions. When Sanctuary refused its help to Mexicans and Hondurans, it was because of its somewhat illusory aim of operating “on advice of counsel,” within the guidelines of the 1980 Immigration Act, which stipulated the persecutions of open warfare and openly hostile governments. Privately, though, Sanctuary seemed well aware that the trekkers North from Mexico and Honduras – alike with those Salvadorians, Guatemalans, and many Nicaraguans – were often fleeing political persecutions from countries which did not choose to guarantee them physical safety from the police and the military; though many in the Movement, Corbett expected, showed a bias toward helping refugees fleeing from rightist governments. That the Mexican Government was building detention camps in the South near the border for Central Americans whom it was helping the INS block from entering was a fact of life to be dealt with. Corbett repeated a joke he heard in Hermosillo that the gringos considered it logical enough to add Latin Americans to “their list of undesirable insects.”

“Illegals,” he pointed out, are “terrorized fugitives who are used and abused as people without rights.” It was as though an upside down funnel of sorts was pouring the contents of this refugee fayuca mix from the entire region of nation states to the South into the west Texas-Arizona border area.

Similar migrations from the South were taking place around Laredo and there was an INS Sanctuary arrest and prosecution there which was finally dropped, after 2 appeals, for lack of evidence. But near the twin Mexican-American cities of Nogales there’s always been a large inland sea of people, and lately that was being incremented by increased economic opportunities. It sometimes seemed as though Northern Mexico’s population was just spilling across our borders.

Chapter III

BELOW NOGALES

“Mr. Rodriguez,” asked U.S. Attorney Reno of one Salvadorian witness, on direct examination, about Nogales,” did you have a conversation there with Mr. Conger about your entering the United States?”

“I talked to him about all that I had suffered in El Salvador.”

Reno then asked that the answer be stricken “as not responsive.”

Nogales was where Sanctuary usually met up with most of its refugees, and in Naco to the east. “There was a day,” a refugee testified, about his stay in Nogales, “when some persons arrived and helped my children.”

“A lady took me to this residential area,” in Nogales, he later explained, about his own crossing, “from where I walked during 15 or 20 minutes, looking for a hole to come in.”

American Nogales is small and thinly populated, but Mexican Nogales is large, spread out along the Santa Cruz river and the border. It’s a hub, not only the most popular entry point to either country in New Mexico and Arizona, but also a growing entry point and industrial center. “When I got to Nogales in a vegetable truck,” a refugee told me, “I knew I could get across with the strawberries.” “There were so many Yankees there,” another said “and some of them even looked friendly enough.” “Going alone through a hole in the fence in Nogales,” another refugee pointed out, “was the safest way for me to enter.”

Cheap labor manufactures parts of things on the Mexican side of the Nogales border and ships them over the line to be assembled as finished products in Arizona. Cheap labor also comes across the line there to upscale itself, if it can; and underage gringo kids go across often to

Nogales to drink in its bars. Generations of UA frat boys can boast of their first dose of the clap, “I got it in Nogales.” “When I was in school I couldn’t believe it,” a local journalist confessed to me. “Nogales just seemed to hang there in the desert like my personal spitting cup...and the people were so desperate I could do pretty much anything except murder down there and probably get away with it.”

Through this population center of a half a million souls, and bar girls, and male prostitutes, or *putos*, moves much of the fresh winter fruit and vegetable crops of the Mexican states of humid Sinaloa, Nayarit, and Michoacan North to U.S. supermarkets. Driving, the main highway out of Nogales, North, is lined with storage sheds and cold storage warehouses for produce. (Mexicans can come and go across the border fairly freely for periods of less than 24 hours to shop and work and many do.) Many refugees and Mexican ‘illegals’ first came North beneath a pile of lettuce. Until recently, Mexican marijuana and other illicit drugs popular with hip circles in the States, were also trans-shipped on such routes, frequently clandestinely, in and around Nogales.

A motel near the border where Jesus Cruz and his nephew and cohort, ‘Solomon Graham,’ often stayed while they were spying on Sanctuary, is referred to in some circles as being “smack on the border.”

Between macquilage and green groceries, licit and illicit, this part of Sonora seems a little more prosperous than most of Mexico; the same soul-ravishing shanties, but lots of cars, TV antennas, supermarkets, American style fast food emporiums. Nogales has a main street of school suppliers and haberdashers as well as souvenir shops, and the customers at the better steak houses are often just as likely to be Mexicans.

Prosperity, tied to the U.S. economy, has also brought a fairly sudden violent growth of right wing autonomist political movements lately, such as the PAN, determinedly petty bourgeois in character, who are said to be importers of weapons. They are regarded as an increasing electoral threat to the historical thrall of the PRI over most of Mexican political and economic life. In the North the PRI fixes elections in its favor, but it doesn't make itself popular. The right wing of the PRI rules Mexico presently under Miguel De La Madrid, "el gusano rojo," "or red worm," according to some Panista Sonorans. The chief U.S. customs official recently came before Congress to accuse this Mexican President of having "Family" connections.

So many Sonorans and Chihuahuans hate the PRI-dominated Central Government in Mexico City, that they are comparable in ways to the many Arizonans and Coloradans who feel that way about Washington, DC, and there is talk, if all else fails, of violent insurgency. With their cattle and mining and growing industrial base, why should Sonorans be forced to accept second-rate handouts and status from a hopeless mass of hacks lost in the overpopulation and smog of Mexico City? As one Sonoran journalist put it to me, "We don't like the refugees, maybe because they remind us too much we also live in a tyranny."

They come up through the poverty and squalor of Nyarit and the harsh mining country around Cananea and Nauahoa to the relatively green mountain valleys where there are large fincas, along the dusty red highways of the trucks, or the paths of the Mayo Indians. They all know to avoid the huge Mexican police checkpoint at Benjamino Hill. They hope to find pick-up work along the way, but some may be forced to steal, or scavenge, harvesting chollas, digging after sand plants, chunks of organ pipe cactus. There are the predators, animal as well as human: mountain lions, pumas, poisonous snakes, gila monsters, scorpions, black widows, nasty stinging wasps.

Without resources, or information, they arrive in Arizona, lonely, friendless, looking for relatives, or former friends. Some are quickly forced into virtual peonage, or become the furtive members of an underground Latino society existing, in part, to exploit them, where every untoward act can lead to incarceration, or, worse, deportation to the home country. “After Guatemala,” a refugee told me, “I breathed on the States like a fish under water.”

“Look,” a witness told the Sanctuary jury through a court interpreter, “the first thing is that we had a very deep terror. We were afraid to be captured at any moment and to be returned to El Salvador. That caused us to be under a tremendous pressure or tension.”

“If things get much worse,” a Salvadorian academic told political scientist Lester Langley, in the midst of Salvador’s unrelenting guerilla war, “I’ll take my family North...,”

“To Honduras?” he was asked.

“No, to Houston,” he replied.

The refugees come to the U.S. for safety in the long term as well as immediate Sanctuary, and our policies toward them are surely not even-handed. The well-to-do are admitted easily. They, it seems, have well-founded fears based on their own previous acts.

Time and again, INS officials dispute they are deporting without proper scrutiny the numerous poverty stricken ‘aliens’ to Central America, and that’s only true to the extent that most of the half a million “illegals” who are here try to have nothing to do with the INS. “If a Government becomes a lawbreaker,” Judge Louis Brandeis once pointed out, “it breeds contempt for the Law.”

The Reverend John Fife finally told the Court, “We must all of us, even the INS, be willing to be judged by the people....”

A Salvadorian who eventually made it all the way North to Chandler, Arizona, near Phoenix, with the aid of Sanctuary, told how he first found help: “I was sleeping by the train tracks (near Nogales) and from there I could see the church (the Sacred Heart Church of Father Tony Clark in Nogales, Arizona) because it is in a high spot on the land, and I went there and was fed and they said someone would come and take me to Tucson and then to Chandler.”

When asked who that ‘someone’ was, he replied, “*No recuerdo.*”

There are many ways to cross illegally from Mexico to Arizona, and all seem hazardous, at present, precarious. There’s a largely unguarded stretch of sheer bare Hollywood-style desert South of Huma, above Badger and San Luis where, as one Border patrolman put it, “It’s much easier to go undetected because nobody in Yuma really cares that much.”

Aside from the terrific desert heat, this land is often fenced off and off-limits. Army, Marine, and Air Force ordinances stretch into Arizona from the bend of the Colorado River near Yuma; it’s where the military trained for the Grenada invasion, the aborted Iranian hostage rescue mission; and there are clandestine CIA airstrips also in the vicinity. In a big city like Nogales, on the other hand, a refugee can find sustenance for a price, get lost, and maybe locate himself, almost to his own surprise after a while, on the other side of the fence. Special Asst. U.S. Attorney Reno put it this way, in summary, with his customarily oafish brand of malevolence: “Father Quinones took them, again, to that elevated point in Nogales-Sonora, and showed Mr. Segovia the fence hole and pointed out the Sacred Heart Church and said when you get to the church ask for Father Tony.”

“As a Catholic priest,” Father Tony Clark replied to the Court when he was at last allowed to speak without hindrance, “my job is to provide food and shelter. Never did I seek to ‘harbor’”

“So often your Honor,” he went on, “has been willing to weigh whether the Defendants broke the Law. Never have I heard you express concern over whether the Law was being administered fairly for these (Central American) people. . . I am not guilty of any crime before God or the people of this Land.”

THE TERROR STATES

Governmental functionaries tend to lie almost as much as parents, lawyers, or used car salesmen. Thus, FBI Director William Webster did not hesitate to tell a California Congressman inquiring about a number of ‘break ins’ of Sanctuary churches “that the FBI does not engage in these types of operations.” (“The State keeps spies,” wrote Beaumarchais, in “The Marriage of Figaro,” “and pays traitors, ever concerned to palliate the pitifulness of the means by the importance of the end.”)

In most parts of the world the State remains lawless. Its functionaries have awesome discretionary powers and, even where there is a tradition of lawful behavior, are still rarely willing to act as the law would have them act. The idea that human beings have an absolute liberty of conscience or action, within a prescribed body of law, is still awesomely strange.

Whatever liberties we do have are often curtailed or manipulated by the ‘Security’ needs of the State. When Law, like patriotic feeling, is used as an alibi for not allowing compassion for others to determine policy, only those with some notion of holiness, or the sanctity of human acts and deeds, effectively manage to transcend the narrow appetites of those in power.

Sanctuary behaved as though it knew the intention behind the intention of the governmental bureaucrats who sought to restrict the ingress of refugees from the Border. It often had to say it was acting on “advice of counsel” through the Law when, in practice, its sanctified intentions of rescue, like an aura, enveloped existing statutes, and seemed to permeate them by going around them. In other words, the 1980 Refugee Act only gave it post hoc justification for doing what it surely would have been moved to do, in any event, lawlessly, if necessary.

“Quixoticism” was James Corbett’s word for describing acts and aspirations toward others which only came about through the exercise of mercy, compassion. “We can choose,”

Corbett wrote, “to make ourselves the channels through which the ultimate reality of love is actualized in the world or else we can choose to cut ourselves off from reality by making self our center of meaning.”

If you refuse to identify the will of the State with the will of its people, then you have to hate coercion of any sort. In his anarchic mode, Corbett depicted violence toward communities of people such as the refugees as essentially opportunistic. Whenever the State renounces some form of barbarity it creates new institutions, equally barbarous. The U.S. State Department claimed to be reforming Central American societies so it did not wish there to be refugees from the process.

To detain ‘aliens,’ it set up privately-managed detention centers in Laredo, Texas, and elsewhere, through the Corrections corporation of America; and was detaining approximately 5000 in remote swampy Oakdale, Louisiana, its own establishment. About fifty undocumented workers from Salvador and Ecuador were rounded up suddenly on Long Island in June, 1986, and shipped to Oakdale to begin deportation proceedings, without benefit of counsel, until word got out through their Long Island employer and press and legal coverage came about.

The Government was planning eventually to phase out such horrible places of public accommodation as the giant El Centro, California center (where most apprehended in Arizona were initially sent); temperatures there often soared as high as 120 degrees and the detainees spent up to 12 hours of every day outside.

The new cost-plus Government-licensed contractors of detention for the aliens would incorporate the latest behavior modification techniques. The refugees who could not raise bail or find lawyers in these remote localities were sometimes interned just as long as it took to hold deportation hearings and entertain State Department investigations and recommendations, though

some were coerced into signing voluntary departure affidavits by being told husbands and wives had already signed elsewhere. The new detention centers played music and were air cooled, and featured better recreation and cafeteria facilities, while they sought to homogenize legal rights. (As General Counsel Inman boasts, “The same criteria are applied to individuals from all countries.”)

Roundabout Naco and Bisbee, the landscape has the abandoned look of excavations on the Peruvian altiplano. Hot winds burn the copper tracings green, mauve, and black. Ravines clot with chollas, dust, tumble wood, flur del campo (which is edible) and lomboy (which is not). There’s a huge mountain by the sea in Puerto Penasco across the border in Sonora that’s been given over entirely for Yankees making dust storms in their three wheeled dune vehicles. The Desert is shrinking, constantly; it’s being scored to support less and less life.

Some new towns in Arizona’s desert serve the old and retired on pensions almost exclusively; others stretch out from the Army post at Fort Huachuca like lesioned intestines unraveling, an ektachromed detritus of tailings; squat low modernistic tenements, with pools, and tawdry new strips for commerce. The hovels of the miners and the dry farmers remain, and the hulks of abandoned vehicles, but all had changed, changed utterly, by people coming to live in the desert whose incomes originate in Washington. The retirement and senior citizen towns are said to be excellent locations for shopping for bargain used cars, especially Cadillacs, and they are deeply conservative and isolated from the populations surrounding them.

Outrageous yellow sunflowers and mustard patches glow in this desert. There are precipitous arroyos which nestle rocks burnt black as dinosaur feces. The earth has been split

into hardened discs and clumps by the intense sun, turned as brittle as a spilled roll of giant Necco wafers on a dusty candy store floor.

If you keep your eye on the washes you can sometimes see the illegals arriving, in pairs or threes, wary as jack rabbits, coming often just at dusk. As one veteran observer has pointed out, the wonder always is where they think they'll spend this night, and the next, and the next...

They step into the dusky evening as though assured of security by doing so. They walk among dark patches in the landscape, not so much furtively, as with intense intrepid steps, like waders. As the dark casts its spell on them, I always remember the refugees I saw in Managua in 1978 and 1979, when Somoza bombed populated areas at low altitudes. Then whole families left with everything they could tote, including farm animals, caged birds, clothing, beds. The American press always gathered around them then, as though they were just frightened and bewildered children. It was what the press did to protect themselves from this People's anger. To be terrorized makes one angry, emboldens. The press tried to infantilize their attitudes by showing them as bewildered, covetous, and grasping.

In El Salvador the refugees in camps were poorer. Under governmental supervision, there were empty tents and oil cans for cooking fires. Few stayed on willingly, but the soldiers and civil guards kept them there. There was about the place I visited a stench of rancid blood, excrement, and the sweetening scent of tear gas. Carrion birds were always lofting overhead, "looking for stray parts," a photographer friend joked.

The same sort of primitive places existed in Honduras under UN supervision, and in Guatemala, when I asked where refugees were kept, I was told only 3 years ago – "nothing such as that exists here now. Go to Chiapas if you want to see them. Those who stay behind we take care of."

As many as one hundred and fifty thousand may have perished in all Central America since the late 70s. There are bound to be those who still fear for their lives enough to wish to flee. But, in Nicaragua, I was told those who went to Costa Rica to avoid the fight were “sell-outs.” (For a good description of the Mexican camps in Chicapas, see Golden and McConnell, “Sanctuary: The New Underground Railroad.”)

Always my questions were asked in a state near terror. I feared for myself, but asked questions about others. One never really knew whether to expect violence, or a courteous reply. In Honduras I felt I could move about more freely to see things for myself, until in Honduras I was also made to feel like a prisoner of the State, almost as though I were also an illegal.

It happened on the streets of San Pedro Sula. I wanted to see the huge American airbase at Palmerolla on the road to Tegucigalpa, and in San Pedro, in the United Fruit Company District of Honduras, it was early morning when I found a driver who would be willing to take me there for a generous consideration. “I could also show you many of the Contras in their camps,” he said, but that didn’t really interest me. We decided to look in on Palmerolla, with a brief side trip to the ruins of Copan; and, as he was an agreeable fellow and seemed to like to chat, I sat up front with him in order to practice my Spanish.

“We are the Nation of the 70s.” A Reformist Honduran President once boasted: “70 percent illiteracy, 70 percent poverty, 70 percent rural.” I’d hoped we would talk about such things, or about politics, as we went along, but the driver was mostly interested in talking about the rich, and about women. The very rich in Honduras, he said, were almost always Jews. Like this Mr. Goldsmith of the Atlantic Bank. My driver was quite convivial about all that, even as he told me about that other rich Jew who owned a lot of Honduras, ‘Meester Rockefeller.’”

I had to assume he was some sort of leftist, with more grudge than militancy or politics, else he would have not otherwise volunteered to be so conspicuous around Palmerolla.

“*Companero*,” I suggested grandly. “Let’s stop for coffee somewhere.”

“Around here we say *hermano* to be friendly,” he corrected me. “it’s safer.

It was such a fine day when it began and together we saw much of Mayan Copan and he proved a knowledgeable guide, whether or not he was telling the truth, a true storyteller.

Of the new invaders of the U.S. Air force, whom we observed from a hillside overlooking the huge busy base, which seemed to have been bull dozed out of terraced fields and rain forest, he remained silent, non-committal, except to advise me that the Military Police could be difficult about taking pictures. “I don’t travel with a camera,” I said. “Just my memory.”

“Intelligent,” he commented. Or perhaps, “Intelligence.” I wasn’t listening very carefully.

It was dark out by five thirty when we started back over the mountain roads. Again I was up front with the driver, and I noticed the headlights behind us almost immediately. They kept their distance, though, from pass to pass, and all the small towns and junctions and then the paltry shabby suburban subdivisions; for the Central American poor are also crowding toward the large cities for opportunity, just as they come here; and it seemed that evening as if the soldiers were not so much pursuing us as escorting us, all the way back to San Pedro Sula.

It was toward the end of the dinner hour when we entered San Pedro and the stalls and restaurants all seemed very busy. I asked to be dropped off in the principal square and paid the previously agreed sum. “Don’t turn right,” my driver shouted, as he moved off, with my hand still on his door; and when I turned right the jeep which had been trailing us all that time pulled

up and parked alongside me. There was a driver in front and two heavily armed non-coms in the back, an empty jump seat, a field radio with a big antenna.

Honduran or U.S., I couldn't tell who they were for sure, and they seemed to eye me as though I was clearly not who I seemed to pretend I was.

Dressed in U.S. style camouflage fatigues, with forager style caps: though I quickly noted all three names on the tags on their chest were Spanish, the younger non com in the back, with more rank, was much fairer complexioned than me, and spoke without any accent. "Please get in," the man, Rivera, told me. I didn't argue. I sat in the jump seat. He had an Uzi on his lap with a very short metal stock.

They all seemed to know I was not a tourist. They didn't ask to see credentials. As we drove off one said, "You smell like a cumpa."

"I was out in the country all day," I explained. "It was very hot. I'm a journalist."

We were going around the square and nobody was listening to me. The second time around Rivera asked if I had visited a certain bookstore when I was in Tegucigalpa.

Of course I had.

Did you meet any poets? he asked.

In fact I had, and one had signed a copy of his book for me, "Los Pobres."

"The poor," Rivera seemed to be repeating my words for his friends. "The offenses against them here are numerous and you are the one to help them, of course, you and this poet."

His behavior toward me was no more threatening than that, a smirk in the dark, and then we started up from where we had stopped, alongside a market kiosk, and around that square again, a route which we would circumnavigate at least 50 times.

“You should meet our Coronel,” Rivera laughed. “He has a reputation among the poor...especially the refugees in the camps. He would enjoy you.” They had stopped again, and the driver was pouring out small cups of coffee from a thermos which they drank quickly, without offering me any. Then they told me they had followed me from Palmerolla and wanted to know why I had gone there.

“Because I’m a journalist.”

“And your driver? He’s a journalist too?”

“He’s from Guatemala,” his companion said.

“Did you know that?” I was asked.

I confessed I did not.

“Like so many refugees here,” he added.

“We saw you this morning in Comayagua taking coffee....”

“That’s new to me,” I told Rivera.

“Why would he take you to Palmerolla?” Rivera asked. “He doesn’t even belong....”

I shrugged.

“Because,” I replied, “I asked him to, and I paid.” We never made any more progress than that. I was asked the same questions 20 or more times. I was asked why I was interested in such people. I was asked by Rivera, specifically, what did I know about this man I had chosen to be my driver?

(There was little to say about Carlos. When I’d mentioned I was a journalist, my driver said, personally, he would like to fuck Gloria Steinem.

Rivera said, “These people want everything when they come here.”

“I think he saw her picture in a magazine somewhere, or on TV,” I pointed out. Rivera said nothing more.

We drove around the square again. I was beginning to feel dizzy from the sudden lurching of hard left turns.

It seemed people on the streets were beginning to notice. Surely they would not harm me now.

I asked to be released.

“Soon,” was all Rivera said.

The same questions started again, and now they asked to see my press credentials.

Then we lurched forward toward the entrance of my hotel; the door swung open; and I was given the high sign to leave. “Well brother,” Rivera said to me, “I believe you will be leaving San Pedro tomorrow.”

That night I didn't sleep well. At daybreak I was at the airport. There was only one flight leaving for the Bay Islands. I stayed there 3 days at an inn and then went back to Tegoose.

This was still Honduras but seemed somehow safer. I even thought of making my way across the border to Nicaragua by bus and lorry and cart or burro, as Carleton Beals had done so many years ago when he interviewed Sandino. With a war going on, would I be any safer? Most of the traffic was outward bound from Nicaragua. Besides I had written some things which may have displeased Sandinista authorities.

Tegoose was dry and cool and pleasant. So many Yank soldiers there in crew cuts and civvies would have been disturbing only if I was after high life or vice. The putative Chief of Station of the CIA was blonde and glamorous, did laps every morning in my hotel pool, and drove an open convertible.

I made myself very conspicuous in a room at the best hotel in town, did not even venture out for meals except once, when passing a small interesting-looking café down from the famous ‘patriotic’ statue of the French General. The place was small and dark with pretty waitresses wearing Indian skirts. There were posters of art exhibits, theatre events, and readings on the walls. I ordered a light supper of shrimp and rice and was just about to taste my food when the door opened and my driver, Carlos, entered. He saw me immediately.

“What did you tell them about me?” he demanded.

“Very little.”

“We all saw you picked up,” he said.

“It really wasn’t you they wanted, you know, it was me.”

He said he’d left San Pedro yesterday evening, and had been hiding out in the country, and he would be leaving that very evening for Mexico. He would eventually try to enter the States.

“*Chingado*,” he said. “I’m not ready to settle in my grave yet.”

“Why not go to Nicaragua?” I asked.

“Why ask for trouble brother?” he replied, with a shrug, in English.

I left Honduras the next morning by way of Belize and there I met many more Guatemalans who told of their lucky escapes. They always added how so many more had not been so lucky.

19th Century travelers often remarked on the good health and nutrition of the Central American Indians. Now two out of five babies die of dysentery from polluted streams, and malnutrition. When it’s argued that the Indian and the Mestizo are only fleeing to gain economic

opportunities, I am reminded of what one Indian shaman told me in Mexico. “My people are dying,” he said, “and I have no medicines to cure them. Armadillo horn can’t cure the TV, or the baby from being still-born. The stream water is full of death and our children drink from it.”

Throughout Central America I have seen Indians begging in the streets for the merest sustenance who know they cannot return to their lands for the *badinos* have seized them from them, as though to acknowledge that the Indian is an endangered species who will shortly be out of the way of progress. The Indians of the western part of Nicaragua, Nahautl-speaking, as in Monimbo, have already become a threat to their Government’s security, simply because they didn’t wish their children to attend the Government schools. *Monimbo es Nicaragua* the revolutionary slogan, might now be revised: *Monimbo es el Indio*.

Chapter IV

A VISIT TO A PRISON CAMP

February is a very warm month in Nicaragua. Night winds are usually balmy; the stars seem to cluster like scrambled egg whites in a vast pan of darkness overhead.

When the moon comes out, small farms and peasant hovels lie like large crystals of salt about the landscape. A peasant once told me, "This moonlight can cut your face."

On one such evening, I went with Commandante Tomas Borge, who is Nicaragua's Interior Minister, and some North American tourists and journalists and a Government Television crew, to the prison just outside Managua called La Zona Franca, because Borge said he had something to say to the numerous Miskito Indian refugees imprisoned there for insurrections against the Sandinistan government.

In Nicaragua, as here, important people in government take the media with them whenever they're doing something which can be construed as intelligent, or kindly, or merciful. The Nicaraguan press in attendance were Borge's own press, and when he entered our van to travel with us unattended, we were flanked at every moment by jeeps and sedans of heavily armed guards. Standard issue for Nicaraguan soldiers is the Soviet-type AK-47 rifle, but Borge's guards, for unknown reasons, carried American-made M-16s and carbines.

On the way to the prison he took us to a farm near Tipitapa where approximately thirty former National Guardsmen of the Somoza regime were serving out long sentences, but with regular furloughs, in an atmosphere which, one former non-com assured us, was without coercion, or even the customary restraints of armed guards and cells.

"We hope someday that all our prisons will be like this one," the Interior Minister explained, when we were back inside the van. He spoke with a sudden casual intensity, as a man

who had administered many such places now, and had once been a prisoner himself. What he hoped to convey at the Zona Franca to the Miskitos who have been in revolt against the Central Government, instigated—Borge would maintain—by former soldiers of the dictatorship and the American CIA, was meant to reassure and assuage. He wanted no more refugees fleeing Nicaragua, no more draft dodgers and he claimed to want peace, a peaceful order. Many of the Miskitos have now been relocated elsewhere, for security reasons, from their villages along the Rio Coco, and many more have fled to Honduras and Belize. Some, a lot, have been killed, though Borge's words now seemed without vengeance.

“It's not all their faults,” he said, “they are the victims of history, too...and there's been too much ignorance...they were told alarmist things by provocateurs and the CIA agent Steadman Faggoth, who was once a Somocist informant. They were told they would lose their houses and churches,” (which eventually happened), “and their children would be taken from them and sent to Cuba,” (which has not happened in many cases yet). “The river is very important to them, too, and they worship it. They are so very different from us, you know,” Borge went on, glancing up as if a prophecy were coming true in front of his glance.

Tomas Borge is the last surviving member of the original Frente Sandinista Directorate, and some years older than all the rest of those who now rule Nicaragua. He's a published poet, a witty verbal person, whom the right has accused of kicking prisoners to death; and since he has known in his life what it is to be a “preso,” he always mentions that, but he does not mention any more that he was liberated by Eden Pastora's raid on the National Palace in 1978. Pastora has broken with the Government Borge serves, to seek exile for himself in San Jose, Costa Rica. Pastora was Borge's deputy after the victory; seeing them together, at a restaurant or reception,

was to observe comrades wary of each other's shoulders. Borge told us he did not wish to speak about Pastora and turned his head away whenever the name was mentioned.

Tomas Borge has never been to the U.S. and when he was invited by officials, or universities, declined because he told us he was fearful for his life, and when he later accepted was banned from coming because of the ideological exclusion provisions of the McCarren Walters act.

He's a stocky oval-faced man with thinning hair and skin the color of light coffee. He's always been very popular in Nicaragua because he's so outgoing and eloquent and speaks his mind, people say, in a militant way but with humility. In well-pressed military fatigues with embroidered collar emblems of red and black and silver, a gleaming holster, boots, his personality seems oddly mild, almost rueful; he would probably find it hard being distant to a peer. In fact, he has only a small share of the power of Junta chief Daniel Ortega, or his brother Humberto, or even political-military chieftain Bayardo Arce, a member of the 9 who run the country. Borge, though, does have his own armed forces: the police, uniformed and otherwise, prison guards, security forces. He is also said to be the financial sponsor of the pro-governmental daily, Neuvo Diario, which is helped by monies collected from fines and traffic tickets by his Minsitry. Neuvo Diario calls itself, "the newspaper for the new man." It's on a slightly more exalted level than Barricada, which is a Sandinist fish wrapper, but is also mostly party propaganda which every once in a while has to print a picture of the late Tacho Somoza with some prominent member of the clergy or the opposition, on its front pages, to remind people that church criticism of the government can be counter-revolutionary. One does find bits of news in Neuvo Diario: that very day I'd read about heavy February casualties on both sides of

the Honduran front, and about governmental efforts to make a deal with a large British-American tobacco consortium to cultivate and market tobacco in Nicaragua as a dollar-getting product.

Nicaragua needs dollars desperately to pay off an international indebtedness of over \$1.5 billion dollars as large or larger than its GNP, or to modernize industrial and farm equipment. A dollar surplus could mean improved living standards for the Nicaraguan people who are making do without old luxuries and, in some cases, necessities. If the Government says the Bourgeoisie must sacrifice, so must all the poor. In the early days of the revolution, Tomas Borge once told the people of Rivas that if they didn't like what was happening with their revolution they should make another. Since then there's been so much open warfare on the northern border by the Contras, he has not—to my knowledge—repeated such an exhortation.

The flood of arc lights sometimes stunts human figures. The four hundred Miskitos and others lined up at attention in ranks of six in the prison yard, seemed stunted, almost like children. For one thing, they wore short pants and rubber-thonged shower clogs, like concentration camp Kapos, and they were squinting from the harsh overhead lights and the strobes of the T.V. people washing across their dark faces so that they were either forced to glance away, or were caught, like deer in headlight beams.

There was a barracks to one side of the assembly point with slatted windows and one could see the eyes of other campesino prisoners peering out at the assembly. Some, I was told, were captured 'Contras;' others rounded up for infractions against new work rules, The Peoples' Church, for black marketeering, or even for being dissidents.

Followed by his retinue of media people, Borges wasted no time with those behind the slatted windows. He made his way through the ranks of the prisoners and up the stairs of a wooden platform where some junior officers were setting up a P.A. system.

On stage, as it were, he seemed alternately vapid and energetic, this small thick man standing above the heads of the boyish dark-skinned prisoners. Armed guards came between him and the prisoners and he spoke with increasing eloquence and even floridness.

Earlier he had agreed when a subordinate for his Ministry told everybody “we don’t wish to enrich other countries with our people.”

Now Borges’ message, to this selected lot was forgiveness: The revolution was generous and errors had been made. To be a prisoner is a denial of life, he pointed out. To be a refugee is to be alienated from the Patria. They were called together today because he wished them to know of his plan for their futures.

A large farm was going to be established not too far from here near Managua, he pointed out, and near a river; and when this work was done he was offering it to the people and they would be paid good wages there to grow and harvest tobacco, and they could have their own churches, and their wives and children with them, and they could sing their own songs and dance their own dances, and there would be peace and happiness for them within the revolution, Borge pointed out: “Within the revolution everything is possible.”

It was an appealing speech. Borge placed no blame for errors on the Miskitos beyond the fact that they had been misled by the CIA and Contra detritus of the Somoza regime which has always neglected the east coast of Nicaragua where most are black-skinned and speak an English patois, along with Miskito.

Borge elaborated on each point, and seemed to dance around himself sometimes as he spoke: Their Sandinista revolution was open to all those who were willing to join. He asked only loyalty of the Indians, and that they try to learn Spanish, and in return they could have their own church to minister to them, the Mordvian Christian Church, even though some of its clergy had been proven to be “contras” and traitors.

Borge said there was, of course, racism and prejudice in Nicaragua, but it was not governmental policy, and it was not his policy and here was proof: he was offering them work, not prison, with their families, and their church, and a river.

The night air was becoming colder. Dust blew around our ankles. Such an oration should have brought enthusiastic cheers from the Indians, but the ensuing silence was noteworthy. It was the appalling silence of puzzlement, a tense fearsomeness, as if all those dark faces had been set into a jell from which they could not break free.

The lights dimmed and Borge conferred with his aids behind his hands. “Commandante,” a voice from the prisoner’s ranks suddenly called out: “Commandante Borge...”

He seemed startled and, at first, seemed to wish this urgency to go unnoticed. But, as the lights turned on the prisoner’s face, he spoke without further permission.

The Commandante, he pointed out, politely, in Spanish, had not been heard or understood. None of the prisoners spoke any Spanish. But he was now prepared, with the permission of Commandante Borge, to translate such remarks into the Miskito language.

If the aids looked troubled, there was absolutely no hesitation on Tomas Borge’s part. The young man was brought up to the platform to recite his version of Borge’s words with only occasional Spanish sounds interjected.

The Miskito language is unlike any I have heard in my life. It sounds like Colorado brook water running over rocks. It's virtually without stress, a light long liquid ululation that is pleasing to the ear, with various pitches and dissonances. It's a breath language, and must be wonderfully suitable to poetry and song, requiring long runovers, and falsettos.

Nicaraguans have a genuine contempt for this minority Indian culture. Their development plans for the east coast imply that all must remain uprooted, even if there is peace. They have always been considered primitives, at best, and their barrios in Managua have received few of the perks of the other poor pro-Sandinistan barrios since the Victory. Nicaraguans pretend they are not even there. An official guide, for example, told me that one such barrio (Quinta Nina) was just for "whores and thieves, and garbage (basura).

Nevertheless, Tomas Borge listened to his words being translated with the appreciation of a true poet, and afterwards, he stretched out his small hands and received some of the enthusiastic response he'd hoped for. They raised their hands in the air and cheered him and when he went among them to assure them the plan was real and would commence within a couple of months, there was the shaking of hands and an occasional embrace.

(Needless to say, Borges made no mention of that forthcoming deal for dollars with the huge British-American tobacco multinational.)

I, too, went among the Indians with some other journalists, to speak with those who could understand English. They all seemed genuinely pleased, even flattered, by this gesture of the government, but unhappy at being relocated again, for security reasons, away from the east coast.

And most made it clear that they thought they had done nothing to deserve being prisoners, in the first place. No charges had ever been brought against them beyond "suspicion." There was simply no place for them in the new Nicaragua as there had once been. Better off to

flee, elsewhere, if they could, while they were free. The true malefactors, if there were any, the prisoners insisted, were those peering out at all of us through the slats in the barracks next door; and they were not being offered a model farm. They all seemed so very frail and helpless as we left them there, surrounded by guards, and the night was getting colder. They were still in place at the T.V. lights went elsewhere with Borge to his waiting sedan.

Later, at dinner, at a lovely restaurant in Tiscapa, above a crater lake, Borge talked about his feelings directly. "It's so hard to build Socialism," he told us, wistfully, almost slyly, and changed the subject again.

He did not deny that many others were in jail for a variety of crimes and not all had been dealt with justly. "We try not to kill," he said.

The Indians must also try to keep up with the times. Nicaragua could grant them no special indigenous privileges, as in Mexico and Guatemala. Every one was needed for the revolution and, if not, they should leave.

Our restaurant was in the open air and lit by many small yellow, white, and red bulbs. There was talk of certain massacres. When Borges got up from the table to leave, he seemed infinitely small and when he offered me his handshake, it was limp. He seemed somewhat woebegone, more wistful than aggressive after such a long, and in some ways, disappointing day. He'd talked to all the North Americans, but they were really nobodies with nothing much to say; and I had the feeling he was just barely hanging on to whatever power he still had; and that may have been why he was so anxious to speak with us in the first place, and to stage his little presentation to the Indians.

The Miskitos are a people of color, "part African," some Nicaraguans point out. A young Miskito told me, "They hated us first...and now they want to secure our coastal lands and

develop these over our dead bodies.” “In Honduras we have brothers,” another pointed out, “but only if we agree to help your CIA.”

Halfway out the door, Borges stopped and turned, peered our way again, as though to calculate his effect on us.

Borges smiled, and even waved a little, a murderous man perhaps, with enemies, though oddly chivalric in his impulses. With his guards, he went off into the darkness beyond the restaurant parapets.

It seemed to me, then, he shared, with the Miskitos in his prison, “a well founded fear of persecution,” the one by the other and vice versa. Ipso facto pollywanna cracker. Borges now represented in his person the more powerful of two inherently contradictory forces. And if he was not making sure that the east coast of Nicaragua would someday be “Miskito free,” he was also not a great believer in freedom of movement for the refugees, or anybody, so long as his “national security” was being threatened.

I mean by this to say that refugees usually come about because politicians prefer to dislocate people to changing their own situations, if that would involve a further diminishment of power. In Central America, established governments create as many refugees as insurgencies, particularly when they confront the seemingly omnipotent manipulations of U.S. power in the area.

So one lesson to be learned from all the camps and prisons of Central America is that decisions made in Foggy Bottom or Langley lead some into detention, just as they determine that others will try to flee, perhaps to die. Our impact in Central America is such that when administration officials say they are being zealous to protect us from an onslaught of refugees,

they usually mean they are being zealous to help create the conditions which cause refugee onslaughts.

Every war produces refugees. The U.S. has produced a war in Nicaragua to deter, it claims, another war against the people it supports in El Salvador. At present the refugees of the Nicaraguan war are being granted legal status when they reach here, but the Salvadorians remain “illegals.” We don’t support their war against the war we continue to support with arms, and advisors.

Similarly, all those who cannot support the sanctuary effort support the U.S. (“Contra”) push against the Government in Nicaragua, and they also seem to end up supporting the deracinating policies of the Nicaraguan government, and the atrocities against indigenous persons in Guatemala and El Salvador. The U.S. says the Nicaraguans want to emplace their revolution elsewhere along the Central American subcontinent. The Nicaraguans say they are responding to U.S. aggressions against Nicaragua, the unfriendly presence of counter-revolutionary forces in Honduras and El Salvador.

The struggle in Central America is only partly between Counter-revolution and Marxism; it is also between various brutal State-sponsored racisms and the need of indigenous peoples for dignity, freedom and/or sanctuary.

End Part I

PART II

“...all of them, sick or poor, whether they’ve traveled ten miles across the border into Honduras or a thousand miles walking or by plane to the United States, are refugees, and, in one way or another, we have an unbreakable link with them.”

Lester D. Langley

Central America

The Real States (Cronn, 1985).

Chapter I

BELIEFS ON TRIAL

The contending parties in the Sanctuary trial were like a couple divorcing on grounds of incompatibility. Sanctuary alleged it was acting in accordance with the 1980 Refugees Act; the prosecution maintained sanctuary had violated existing statutes and procedures by trying to get around the law and the INS.

Both scenarios were equally shamming and melodramatic. The government insisted Sanctuary behaved with little regard to legal niceties, and the INS was just fulfilling its legal mandate by prosecuting. Sanctuary, on the other hand, argued it had always acted with legal and moral probity and the government set out to get them in a “selective prosecution,” to harass and persecute for political beliefs.

When a political trial is presented as a legal procedure, it may be difficult for defendants to set their case apart from the run-of-the-mill, which was the government’s intention, and the

manner in which it was carried out by Judge Carroll. Even when the defendants' own counsel pointed out that typical first offenders in other "alien smuggling" cases of the INS were, as a matter of policy, rarely prosecuted, the government was successful in quashing such observations before the jury who may well have wondered – even if they did nothing about it – why Sanctuary had been singled out, and not others. Were Fife and Nicgorski and Willis Conger really the sort of criminal operatives the INS should be prosecuting? As one juror put it, "We had a lot of sympathy for them... and we didn't feel good about convicting them."

The indictments against Sanctuary were noteworthy also because they were brought by a government which had mined one Central American country's harbors, in defiance of international law, and were openly sponsoring a counter-revolution against a legal government with whom it still maintained diplomatic relations.

That same government, in other words which, regarding Central America as its "back porch," was suddenly eager not to take on any responsibility for the people in that region whose lives were being so influenced by our policies that they fled from that porch to ours. In becoming so suddenly legalistic, the government showed it was one thing to hire mercenaries to rape and pillage in Central America; quite another to invite people from the region into your homes against existing immigration statutes.

The original indictments charged sixteen people associated with the Sanctuary movement with "aiding and abetting etc." A corollary trial of Sanctuary defendants in San Antonio, Texas, was eventually dropped after two appeals by the government for a lack of evidence.

By the time the Tucson trial commenced one defendant, Katherine Ferguson, had plea bargained for a lighter sentence and the understanding she would not be required to testify against the others, and charges against four more were surreptitiously dropped.

The 11 who remained were depicted by Reno in his opening remarks to the jury as being part of a 'conspiracy' led by the "Chief Executive Officer" triumvirate of John Fife, Darlene Nicgorski, and James A. Corbett. The other 8 were merely said to be "transporters" and "smugglers."

Reno's presentation of the affairs of Sanctuary was so formalized it gave little credence to the hasty and improvisational aspect of most Sanctuary actions. The 11 who were on trial were imbued by the prosecutor with the discipline and purpose of seasoned radicals.

"Do any of you ever worry about the end of the world?" the Reverend Fife asked his parishioners one Sunday morning during the homily. Speaking with the almost studied casual manner of the Southwest, he quoted directly from the Gospel of Mark: "Heaven and Earth will pass away but my word will not pass away."

In the words of the Holy Spirit he was hoping to make explicit the protections of religious faith. Sanctuary was wrapped in the odor of sanctity, in part, to deflect the criticism from a hostile establishment. It wasn't so much what anybody did as how others interpreted what they were doing.

Aside from Phillip Willis Conger, who seemed young and callow, - the defendants were always prepared for the worst, gritting their teeth, as it were. In the middle of trial the Rev. Fife confessed to me he was a little frightened. His life had narrowed down to this trial. He was neglecting his flock. When I asked Fife if he'd considered the possibility of being judged guilty, he said he had a lot. "I don't want to do time," he said, "but I know I might have to. I mean what really are my choices?" "I must risk my own life," he said, in mitigation, to Judge Carroll, "rather than stand by silently."

(When asked before the trial began if there'd be plea bargaining, one of the Defense attorneys said with peculiar sarcasm, "For these people? Doing time is no punishment for them. If you wanted to punish them, you'd have to crucify them and nail them up in the hot sun for 3 days like their Lord.")

One major function of a legal code is predictive. If you do this that will happen to you. But the Sanctuary defense was always prepared to argue that what their clients did was to follow another higher code of the U.N., of international morality; and they were, therefore, not subject to the usual kinds of predictiveness. "After 3 ½ million dollars deterrence," Fife said, after receiving probation and a suspended sentence.

Reno, similarly, was prepared to argue from a double standard. It was one thing for him to use pimps and felons such as Solomon Graham and Jesus Cruz to gather undercover evidence to convict because they were people from the real world of "alien smuggling", but he refused to allow that a clergyman could sometimes be vain, without being venal; or that a lonely widow might believe she was acting to save lives by giving her late husband's passport to a friend in Sanctuary to be used by other refugees. Throughout the trial, Reno presented the jury with the abstract acts and motivations of straw men, and toppled them with his charts, and arguments.

It was a little like Sister Darlene Nicgorski, speaking at a University of Arizona convocation during the trial, at which she and three other women chose to decry the Sanctuary leadership of predominantly "white male clerics or lawyers."

"I believe my personal experience growing up as a woman," she declared, "left me with a natural empathy for other oppressed people."

The convocation was rife with sexual politics replacing common sense. Some of the female speakers who'd been courageous "Coyotes" for Sanctuary, now spoke of the mystical

beauty of their experiences guiding the refugees through the Sonoran Desert, as though quite unaware their charges may have been guided by distinctly other more desperate thoughts at such times.

They were on solid ground when – as defendant Peggy Hutchinson pointed out – “if we are citizens of this country we have certain responsibilities and one of these responsibilities is to see that our government obeys its own laws.”

A group of Tucson junior high school students were taken to the Sanctuary trial during the interrogation of one reluctant Central American material witness, Nunez Nieto, and expressed great chagrin that the prosecution would not let him talk about being jailed and tortured etc. Nor would the Judge. “If he were a Nicaraguan refugee that would be different,” one young girl declared. She pointed out that this government only wanted people to hear what was bad about Nicaragua.

The students complained that the Judge kept telling the witness not to speak, and that the jury wasn't being allowed to hear the interesting parts of the testimony. The students were surely being more candid than the local press which steadfastly refused to comment about the trial, on their editorial pages, out of respect for the 4th Amendment, until the verdict was in.

Sometimes defense attorney Hirsh sounded as bemused in his chagrin over the proceedings as one of the high school students. For a veteran criminal attorney, he seemed genuinely startled by the chicanery of the prosecution, as though, expecting no better, he really still wasn't prepared for such a fixed crapshoot: “Why did they have to go on and on? What is it here?” he asked the jury, “what are they looking for? If they have the goods on these people why

do they go on for nine months (with Operation Sojourner?) and this is all they can come up with. And look at the time spent....”

Courtroom lawyers are actors (professional paranoids? hired gunsels?) but their words, to be effective, are often motivated by a high indignation. It sometimes seemed that Hirsh, who was used to appearing against Narcs and G-men, really couldn't quite believe the 'investigators' from the INS could be such bad liars. Agent Nixon had evaded being interviewed by Hirsh for a deposition at length. “Well look at (Agent) Nixon. He is the Supervisor there in Philadelphia, or assistant supervisor.... He is 100 days in Tucson, he said, Xeroxing cases, because the guy was too busy to come talk to me, because he was working 7 days a week. Doing what? Preparing for this trial. Xeroxing cases – far out! In Tucson, Arizona?”

There are certain Tucson mornings when everybody, including judges, marshals, and the INS, wake up sort of freaky, and out of sorts. In high summer with temperatures sometimes beyond 110, this may be understandable: dawn seems cool, but look what follows. In the winter, though, it's dark beyond 5:30 AM, and temperatures stay at close to freezing until the sun is risen, and then blow muggy warm, with the desert bringing a cancerous creosote breath across corridors of empty streets right at you; and the sunlight shattering down from tall glass buildings like a huge hot arc light's incandescence.

It's at such times that you saw many of the walking dead and wounded, the invisible icicle dancers, drunken Indians, hobos dropped off the early Southern Pacific freight near Sixth or Fourth Avenue, the snowbirds who starve for lack of food stamps, the garbage pickers, and other desperate people tap dancing along the auroras of arriving dawn.

To find a seat in court, it was often necessary to be standing outside before 6 AM , though the doors never opened until 8; so there was a lot of time to chat and compare notes. Judge Carroll sometimes came from his breakfast to wade through all our human detritus with a frozen face around 8, or 8:30. He seemed to observe the press waiting for him to open court with a singular satisfaction, a certain high-minded smugness which enabled him never to inquire after any of our comforts, and to ignore us – for the most part – as though we were all just tramps and hobos.

The feelings of ignominy he imparted to us as a group sometimes made keeping with it an effort. One morning I found my self briefing a certain lout for ten minutes on what went on yesterday, before I discovered he simply wanted 50¢ for a cup of coffee.

Grown men and women from the press jostled with each other for places on the line, for there were only 85 seats in Judge Carroll's courtroom, and friends and family of the defendants regularly occupied many of these.

Judge Carroll was not the only person who believed the security he was imposing on this little street corner in downtown Tucson was a portent of the high seriousness with which the State regarded the charges. The Court was small, and many in the press were excluded. Judge Carroll never to my knowledge sought out larger premises.

One morning at dawn I was greeted by another Eastern journalist: "This is America's Dreyfus trial. A trial of the Century."

"Trial of the Sanctuary," I said. "But whose?"

We were the press, of course, daily, working, and sectarian, devouts from the organs of the various churches, blinkered visitors from the major national dailies; Mexican aces from

Hermosillo, TV news people, artists, and cartoonists, the trade press from the “Law business,” the small stars and the large comets with inter galactic advances.

There were also family and friends of the accused, Fife’s pretty wife, Marian and handsome blond youngest son; Corbett’s stern-looking, though soft-seeming, mate, with her bun of gray hair; nuns in mufti, ministers, colleagues, friends, lawyers, and neighbors.

And there were the curious like me, who rarely sat in the press section, though when asked to explain why I was here I would often shrug: “I just may write something someday.” Or, “I’m writing something. I don’t know what yet, about Jewish lawyers.”

Another in my category was Ralph Waite, a Broadway and Hollywood actor, who had been the father on the TV show the Waltons, and thought there might be TV movie possibilities for something he could direct in the trial. He was a soft-spoken man, with a soft brush of gray hair, and a diffident manner, with a politics unusual for Hollywood; he seemed, for example, to be a critical supporter of the SSLN, Sandinistas. Every morning, in the darkness, at six thirty or so, the “regulars” would line up outside the courtroom building like we were on Judge Carroll’s personal dole. His clerk and all the Marshals were always threatening us with the Means test. Did we really belong here? Were we press or troublemakers? Could we pass the metal detector test? I made a mistake of mentioning I taught a writing course at the UA and then it took me two days to get my press seat back because I was obviously a teacher, not a journalist.

“You guys ought to try the Mission or the Salvation Army,” a hobo said to me one morning in the dark as I was queuing up. He sauntered, as though entirely unaware he was one of our domestic refugees.

“You can get soup and everything....”

“It’s a trial,” I explained.

“Well don’t try too long,” he said. “Because I don’t think they give away food here, not even coffee...” and hunched down the street into the darkness.

“Have you seen the judge this morning?” a woman asked me then.

“Not yet,” I shrugged. “He’s probably at breakfast.”

“See what I mean,” the hobo called out. “He’ll take care of himself, but not you guys. Try the Soup kitchen on 23 Street in South Tucson.”

“Try the Latter Day Saints,” he called out.

There was a man who sometimes stood in the corridor outside the courtroom proper and muttered to himself: “Jesus Christ I mean Jesus Christ I mean Jesus Christ.”

There was a man who came every morning with his own deck chair and sat on line from five to eight, sometimes with a piece of cotton gauze protecting his mouth, but never tried to enter court.

When the plague of blood occurred, I found myself before a battery of microphones. It had been a slow tedious day in court. The media needed color, and Dunc Murphy had not yet surfaced again.

“Did I think there was anything abnormal about that man,” I was asked, “who had done that thing with the blood?”

“Just another red blooded American,” I might have said. I said I thought Murphy was perfectly normal and just trying to make a political point.

“Do you agree with him?” I was asked. That’s like asking a fire hydrant what it thought of being pissed on. I’d just been sitting there. It was one of those very slow days, and I was interviewed by the three network local stations, and public television.

Imagine if somebody had stood up in court and called Judge Carroll a sell-out or a shoe fetishist.

The copycats were in business duplicating a non-event and asking for comments.

The religious press were also there in force: denominational weeklies, mensuals of the various sects, interdenominational reviews, and journals, and diocesum dailies, weeklies, and monthly papers. For many, the really hard news had happened 2000 years ago, but they were continually hoping to update.

One woman wore her straight cut slacks so high up on her hips it was apparent she was unaccustomed to thinking she had any hips, or a pelvis for that matter. Her hair was straight-cut, short, and there was something glittery blue about her eyes that accentuated the strawy colorless color of her haircut.

“I’ve never written anything before,” she said, waving her note pad in the corridor.

“What interested you about this trial?” I asked.

“I’m not with the religious anymore,” she said, “but I was once convented. I was a nun.”

She suddenly seemed older and more wane than her initial appearance. “I feel a certain kinship with the woman on trial. If anybody is doing the work of Christ,” she said, “they probably are.”

I felt disabled from making critical comments. For a basically – Reformist movement Sanctuary’s rhetoric suffered from “religiosity,” if not hyperbolic overkill.

“Will you be here for the whole process?” I asked.

“If the Lord allows. If I feel I can.” She turned away from me to talk to an older woman in a ski jacket.

“This is a mockery...an abortion...a miscarriage....”

In a group next to us, Robert Hirsh was kidding the daily press: “You guys ought to get your acts together and print what I tell you.” The Bailiff appeared to urge us back inside the courtroom.

The courtroom was a great theater of illusion, a wax figure exhibition. So eager were the Defense to prove the inherent unfairness of what was going on in this court that when, early on, a prospective juror commented during voir dire that he’d always thought the word “Sanctuary” referred to a place for birds, Attorney William Walker immediately moved for a “mistrial” on the grounds that the Judge had showed bias by repeating the observation, and perhaps he had.

Walker based nearly all of his arguments, motions, and appeals to the court on a single-minded conviction of bias and unfairness which Judge Carroll seemed to feel obliged to deny, even as he was acting out the perfect demonstration of Walker’s allegations.

For example, when the uncooperative Central American material witnesses were subpoenaed and called and refused to testify, even though they had already been taped undercover, and were prosecuted for “contempt” with a form of ‘house arrest’ by Judge Carroll, Walker tried to argue that even though Judge Carroll had ruled that the witnesses did not have the “privilege” of not testifying, the Court “should not allow the prosecutor to call” them as witnesses since the prosecutor lacked a “good faith belief” that they would testify. He cited numerous cases, but his point was Reno and Judge Carroll were seeking to entrap uncooperative witnesses: “I take it Your Honor does not want argument, what you want is simply some authority, so we can argue it later.”

Walker’s blustering indignant incredulous manner always carried the suggestion that he was requesting the Court’s lynching party to consider an immediate pit stop.

“As a matter of efficiency, I wonder if there is some way that we could facilitate Mr. Reno telling us what portions of these tapes he’s going to play before we appear here so that we can have a position and either ask the court to add additional material, subtract additional material, make our fundamental objections, these sort of things. So we are not here fumbling around trying to figure out what it is he wants to play.”

Walker was constantly accusing the Judge of ratifying Reno’s improvisations on the law and legal procedure, and when it came time to file motions he was no less quarrelsome.

Along with Altman, Walker joined Hirsh, Brosnahan, and Yaroshevsky in regularly making motions for mistrial, or took exception, as though paving the way for an appeal at the same time they were trying the case. In this they acted a bit like magicians who go through some fancy gestures, in full dress suits, with a silk scarf, only to pull out a stuffed rabbit tail from their silk opera hats.

Walker in particular, as though parodying constantly, an overweight antic Hamlet, was always sticking it to the Judge. “Is the court suggesting?” he would ask, a coxcomb baiting an ass in Elizabethan comedy.

His incredulity was accompanied by that hectoring badgering mode: “May I remind the Court that we were going to try to see Judge Bilby (Carroll’s colleague) this afternoon?”

The Court: “I don’t think that will be necessary, Mr. Walker.”

Mr. Walker: “The Court means we are probably not going to do it today or tomorrow?”

Walker’s words became increasingly scathing: He pointed out that if there were “contradictions” between the prosecutor’s “notes” on alleged conversations with witnesses and

the actual testimony of these same witnesses “it may be necessary to call the prosecutor as witness” and, in that case, the State should have another prosecutor on hand.

Reno responded with cases to prove he was acting in “good faith” and responsibility, and when Judge Carroll ruled that Reno’s behavior “did not rise to the level where error is found,” Walker’s scowl seemed as permanently affixed as if it had just been ironed on to the hirsute face like a Rolling Stones decal.

The Government’s urgency to convict and set an example was thwarted somewhat by the lethargic timetable of Judge Carroll. With 12 attorneys representing 11 defendants and each taking his turn to address the court and raise objections etc., it was safe to bet the proceedings would be time-consuming, but sessions were held only four days a week, usually for less than 7 hours, and were not held for 3 days before Thanksgiving. Christmas recess was even more protracted: from December 20 through January 7, more than half a month. In part, this was to oblige the jury who all had family obligations, and holiday observances, and jobs (Christmas being a right of citizenship equal to the right to serve on a jury, one supposes.) “The longest Federal trial in Southern Arizona history,” a Marshal told me, proudly. Judge Carroll was living in a hotel room four nights a week, and everybody, including the Defense, claimed to want time off with their families, though even in their free time, the Defense met and rehearsed court appeal cases and took depositions.

Attorney William Walker was a skilled college debater, and he allowed himself to ventilate in a very critical way about all the delays. He seemed to believe Judge Carroll would stall on motions he could not overturn and then act with unnecessary speed to deny, and that

there was design in his interruptions of the Defense whenever they were on a rhetorical or cross-examining roll. He was also very critical of Reno's pedantic criticisms of each past day's behavior by the Defense in court to Judge Carroll. Walker accused Reno of acting like a critic, a reviewer. He always addressed himself to the Judge with the mock contempt of a schoolboy addressing a headmaster. "You honor" and "Sir," out of his mouth, came to sound like expressions equivalent to "Shithead."

When the trial was over, Carroll got even with Walker by delaying most of his payments as a court-appointed Attorney, along with those of Nancy Grey Pastero, for being based on a faulty accounting of hours put in. Both Pastero and Walker denied they had padded the number of hours they'd put in, and Carroll eventually released more funds, but he still lopped off 174 hours Walker claimed to have worked and cut his expenses by 7% from \$2,952 to \$2,744. Walker declared Carroll was saying he should not have spent so much time having to do with Sanctuary on out-of-court activities; and he promised to write the Judge to demand an apology.

Carroll once again, though, was using legal procedure to justify spite. The hours Walker claimed differed from those of the Clerk of the Court. Carroll was holding back funds, but he was no longer saying Walker padded his time.

Once some of us in the press room were discussing what had just gone on in court during a recess when Judge Carroll barged in and accused us of conducting an illicit interview. He had banned interviews in the courthouse building, and prohibited talking to prosecutors and defense less than 50 feet from the courthouse.

If this continued, he threatened, we would all be barred from his court. We would also be barred, if we didn't get back to our chairs on time.

Another time Carroll reprimanded an attorney at the Defense tables for reading while the trial was in progress.

After cautioning every juror every recess not to read about the trial, or watch news about it on TV, or talk about it, Carroll allowed the Arizona Daily Star to do him for a profile, in which he tried to show he was God-fearing and modest. Generally, Carroll always let it be known in court and out that the Defense was not as interested in trying their case as they were in causing a mistrial, or jury nullification.

“Mr. Hirsh, that argument flies directly, in my judgment, in the fact of my ruling that duress and necessity is not a defense. It falls directly and contrary to the instructions that are being given to the jury in this case. That does not constitute a defense.”

Mr. Hirsh: “May I comment on that, please –“

The Court: “I would like you to.”

Mr. Hirsh: “...without interruption, please?”

Much later, in some colloquy, and with the jury excused, Carroll: “I do not agree with Mr. Hirsh in the sense that defense counsel have a privilege to come before a jury and make highly inflammatory and prejudicial arguments...that will be for someone else, perhaps, to decide later on...I have tried to do matters in a deliberate and thoughtful way...”

The Judge and I never really spoke, though I requested interviews from his clerk, Dana Campbell. He must have been briefed, or deduced otherwise who in the press seemed friendly and who was not. Whenever I stared at him, and I did often, he acknowledged my nods with a suspicious rise and fall of judicial chin above his Adam’s apple. He reminded me so much of my late father, the attorney, who also used to call his profession “the law business.”

Judge Carroll was always asserting how keen to legality he was and how fair-minded, with his frozen smiles, his seeming solicitousness toward the jury. He was always asking after their comforts, as though looking after his widowed mother and her bridge club friends. He didn't much care for the gallery which was partisan against him, and would probably have preferred to try the defendants behind closed doors. He wished everybody to know he meant only to convict, but not to punish, and could be irascible about all the suggestions of 'bias.' When he laid hands on William Walker during a bench conference, and shoved him to one side, he seemed actually startled by Walker's complaining. Like a father who had failed at disciplining his unruly son, he told the attorney words to the effect: "It won't happen again. Don't worry."

In a trial involving Central Americans, the name William Walker, who was briefly dictator of Nicaragua, for a defense counsel, might have seemed unfortunate, so this Walker compensated with ferocity at talking back to the Judge, often seeming pertinent but rude. He also went much further than most by charging, without ever being satisfactorily subdued by Judge Carroll, that this trial bore as much relation to a process of justice as Carroll's sweats were to a terminal case of AIDS.

Walker was truly irrepressible--his face a smirk, an angry red smear of mad glee igniting his features whenever he got up to speak. His body was cumbersome and burly, as cuddly as a barrel cactus; he always spoke in reprise to the court's previous ruling with a chagrined, disgruntled, astonishment. He rolled about the courtroom as inside a barrel. Walker went out of his way to characterize the Judge's decisions as insouciant, at best, and, when not inadvertent, openly malicious. Once he motioned that the Court should now show why the trial was taking

place. His every word was an insinuation of sham, malodorous conduct, and fishy collusion. He told Carroll he was presiding over a court of fools, prosecuting beliefs.

In private, he averred he and the Judge simply seemed to have “the wrong chemistry.” Probably what he did in Court, so like the preening displays of the larger male primates, neither helped nor harmed his client, though it provided an entertaining release from the righteous droning on of many of the other attorneys, what one lawyer called “Reno’s deviated septum.” It also may have forced Judge Carroll to occasionally admonish the prosecution for behaving improperly vis a vis evidence, or witnesses, by making more discovery more available to the Defense. These were largely pro forma admonitions, since Carroll had apparently already made up his mind the Defense were guilty of something, or other. When Carroll went tut tut toward the prosecution, he held with it, usually, constantly, against the Defense. A veteran court reporter pointed out, “He’s about as one-sided as a police mirror.”

Many onlookers agreed with this conceptualization. Once, after the prosecution had publicly owned up to withholding evidence, including payments to witnesses, and losing tapes containing what they themselves had previously alleged was vital interview material, the Judge reprimanded “Mr. Reno” even as he opined that he could now see no reason why the trial should not go forward.

The Judge’s obstinacy seemed as viscous and opaque as clabbered goat’s milk. He almost never seemed to change his mind about anything. When the prosecution admitted, more or less, that its chief witness, Jesus Cruz, had perjured himself in testifying about a friendly Salvadorian witness that he had seen him briefly only once since October 1985 – when he had traveled to Los Angeles with the man some months later – Reno seemed about to fold his tents,

but Carroll saw nothing out of the ordinary in such a piece of error and called the Defense's demand for a mistrial "a drastic step."

"As to the suggestion and the continued argument that I have prejudged the guilt of the defendants, or that I am trying to somehow direct a verdict in this case, had that been my intention...I would have done all my things differently..." Carroll did not bother to specify how or what.

After the Defense had cross-examined prosecution informant Jesus Cruz to a point where he lacked credibility to all but believers in Creation Science, Special Asst. U.S. Attorney Reno reached into the government's bag of undocumented aliens to present a corroborative material witness. One of those he produced was 'Alejandro Rodriguez,' formally a labor leader in El Salvador. He had to testify, but he did not have to testify as Reno would have liked. 'Rodriguez' told of being arrested and tortured in San Salvador, and having his life threatened more than once for his activities. Neither Reno, nor Judge Carroll, wished to hear such testimony, and since they often worked in a tandem similar to the collaborations of the Goncourts, much of his testimony was ruled inadmissible as it was being recited. Reno argued it "would only prejudice and confuse the jury."

In the middle of Robert Hirsh's final summary to the jury, Judge Carroll declared before the jury was in court: "...A judge does have a responsibility and broad discretion to control the scope of closing arguments and to comment reasonably on the evidence..." He had accused Hirsh of trying to get the jury to punish the Government for its alleged misconduct of the trial by nullifying his instructions to them about what were the issues in the case. "...I have been the voice of modification continually in this trial," Hirsh told Carroll when he meant apparently "moderation": "I think it's about time that we have the chance to make our argument to the jury

and let the jury decide it, not your Honor decide it...and not to give us admonitions that somehow hamper us, or curtail us from doing our job.”

“...Some of the matters I think here approach and go beyond what I consider to be reasonable and appropriate,” Carroll responded, “and that is perhaps his (Mr. Reno’s) initial responsibility, although, as I say, I certainly have the right to do that.”

Judge Carroll was seeking to turn an adversarial proceeding into a sort of arbitration, it seemed, in which we would rule, at whim, at the appropriateness of the remarks of the Defense.

Judge Carroll’s sidebar conferences throughout the trial were frequent and seemed to resemble, with the 12 lawyers for the Defense coming together with the two prosecutors and the standing court stenographer leaning over her machine to work, a football huddle. Occasionally, the press was invited to send up a pool reporter from the AP. More often than not, these were secret conclaves and the Defense was abjured from telling the press what was happening until we were well away from Judge Carroll’s courtroom.

The purpose of these sidebars usually seemed to be to discuss matters known to counsel out of hearing from the jurors; and it was the case that jurors were often excused from the courtroom for lengthier arguments or motions. It also seemed to this observer, from the way Judge Carroll administered sidebars and often asked the jury to withdraw, that they seemed to be an effort to save the Prosecution from embarking on embarrassing escapades, as though Carroll were somehow Reno’s prompter, often interrupting the Defense also in the midst of important arguments. This seemed to go right along with Carroll’s admonition that he had, as judge, the right and obligation to shape the proceedings. Carroll always seemed to find ways to observe legal niceties when the Defense was arguing a point. The full court record will show he allowed

Reno far more latitude to say whatever came to mind without interrupting him than he allowed to the Defense.

As Hirsh later said to the jury: “Let me tell you they (the Government) want this case bad. they want it bad. And not because of any wrongdoing...because they want it.”

Part II

Chapter II

“The Government and Jesus Cruz”

“During the time I held office myself I came across men utterly devoid of character who collapsed as soon as they were arrested and professed their readiness to supply the authorities with valuable particulars on the doings of their groups...the most potent inducement was the prospect of having the punishment that otherwise awaited them remitted.” A.T., Vassilyuv, “The Ochrana.” (Lippincott, 1930)

On February 22, 1986, Vice President George Bush, former Director of the CIA, arrived in Tucson, like an Apocalypse, for a Republican fundraiser. Asked for his opinion at a press conference of the Government’s behavior during Operation Sojourner, and with the trial still ongoing, Bush made it clear he believed “guilty” was the only possible verdict in the Sanctuary trial, for, when queried about the use of undercover agents such as Jesus Cruz in churches and private homes to make a case against those charged with helping Central Americans to enter the

U.S. illegally, Bush pointed out such issues were beside the point since “the law had been broken.”

The jurors, of course, had been forewarned many times not to read about the trial in the newspapers, but they had never been told by the Judge not to read interviews with the Vice President of the United States.

So Jesus Cruz and the Vice President, among other things, shared a freshly bitten belief, bright as the inside of a plum, that Sanctuary had broken the law, to cover up for their almost certain knowledge that the Government they both worked for broke the law constantly.

“Well, I don’t understand English,” Jesus Cruz, the witness, through an interpreter, said at one point. “So I couldn’t tell you whether the defendants said that they believed they were acting legally.” His English comprehension often varied, according to the needs of the prosecution.

That master of the trite phrase, James Brosnahan, depicted Jesus Cruz as “a person who knows how to play on the chords of the heart.” Under cross-examination by Attorney Robert Hirsh, for example, Cruz easily admitted lying to the defendants to gain their confidence, but these were merely little white lies. He also admitted earning money as a “smuggler” in 1983 while being paid by the Government to inform for them on Sanctuary.

Both Hirsh and Brosnahan were eager to show how fully Cruz was prepared to deceive: at the wedding of Phillip Willis Conger on October 13th, 1984, he even took communion, Hirsh alleged. The prosecution objected. Hirsh was injecting religion into the trial which was contradictory to one of Judge Carroll’s orders. (What kind of a couple, I wondered, would invite Jesus Cruz to their wedding?)

Reno had injected Cruz into the case to infiltrate the Southside Presbyterian Church, which was not a secular institution, but he drew the line at asking personal and First Amendment questions of his chameleon, his sycophant...”Mr. Cruz,” as he called him. Although the Reverend Father Dagoberto Quinones, nevertheless, insisted he was “very sure” Cruz took communion with everybody else for the wedding, Reno’s objection stood: if Willis and Congdon invited that sort to their wedding, I for one was beginning to lose sympathy.

(“He was probably no worse than some of their relatives,” a member of the press joked.)

But even Judge Carroll seemed to dislike Cruz. He instructed the jury they need not take his testimony uncorroborated, which was as close as he ever came to saying the prosecution may have been doing some lying. Allowing Cruz to testify for the prosecution, under the circumstances, was Carroll’s way of stretching himself to go beyond his prejudices. The Judge wouldn’t have wanted to seem biased against Mexicans, just because they were perjurers.

Cruz was a small thick man with a large domed head and narrow long kissy lips. To get the confidence of Sanctuary he posed as a Christian, a penitent, and actively courted the recently widowed Socorode Angular. He was often shy about what he did in that respect, though much less than shy in admitting he’d once been a “coyote,” a criminal, and now was committed to serving his fellow Christians in Sanctuary.

His English, as I say, as he said, was questionable. Sometimes he testified about whole conversations he’d overheard two years previously, and sometimes he seemed to talk in pigeon and not understand anything, a trait which prosecutor Reno imitated during his summaries so that he sounded as though he were talking baby talk to the jury. “I go to Sacred Heart Church....”

He’d been an ‘illegal’ since the forties, and had come across the line often, as “coyote” and undocumented worker. His last known occupation was ferrying undocumented workers by

closed van into peonage in Florida for which he received five hundred a trip. A smart labor organizer named Lupe Sanchez reported his activities to the INS and he was apprehended. On pain of deportation, and possibly a prison term, he went to work as Prosecutor Reno's emissary to Sanctuary.

Asked whether he was wearing a body bug at the Willis-Congdon wedding, Cruz told Hirsh, "I had it on me, but I did not use it.

Cruz always liked to seem a scrupulous man. He had compassion for the widow, and he told Hirsh in all pretrial inferences with Reno and "Mr. Jim Rayburn," he relied exclusively on his memory, had kept no notes. Then he later admitted he had jotted down names and license plate numbers and thrown them away.

Cruz was to tell Sanctuary he was a repentant former "coyote" and offer his services as a Christian to the refugees. It's a wonder he was believed, but not if you know how innocent the people in Sanctuary could be of normal guile.

From Nogales, Cruz called the Mexican priest Dagoberto Quinones and was invited to come over and chat, and passed up the line to Tucson, along with a confederate, another former felon, Solomon Graham aka Jose Morales, Cruz's nephew.

A Sanctuary defendant told me that while everybody was on to the fact that Solomon Graham was probably a government informant, nobody really suspected Cruz. He was a much better poser, a better liar.

Fitted out with body bugs and other taping equipment, Cruz alone became the judge of when to tape and when not. He seemed to be looking to connect this person with that refugee, and when he couldn't make the connections he turned off the tape.

Cruz was a man who always thought his lies were true. He was paid by the charge, almost eighteen thousand dollars in all. He sometimes had to improvise a little. He would forget to record and then depend on memory.

He said he kept no records for the \$18,000 he earned for the Government. “Mr. Jim Rayburn” took his word for “expenses and time.” Almost all the 23 chits he filed, Hirsh noted, were in round numbers of \$300 and \$500. Hirsh called that “double dipping.”

He admitted lying under oath more than once: in a 1982 trial of alien smugglers, for which he was a government witness, he lied “in order to protect the government in their investigation.” In 1980 Cruz listed his employer on an alien registration as a firm that had gone out of business in 1977. “May I explain the situation?” he asked Hirsh. “May I be allowed to explain?” His request was refused and Cruz then insisted he hadn’t really lied in 1980.

Cruz’s memory often played tricks on him. It would make exaggerations out of the truth, as though who could possibly know the difference. His lies went out from him and disappeared into the minds of others. He lied to enhance his subjects, and his self-importance in dealing with them. More than once, Judge Carroll reminded the Defense and the Jury that the defendants were on trial and not the Government. Then it was Cruz, with masterful improvisation, who told the Court what it was the defendants had done.

Sometimes Don Reno also seemed a master of the authentically faked. His assertions about what had been going on among the Sanctuary conspiracy, though bolstered by hundreds of hours of undercover tapes recorded by Jesus Cruz and agent Nixon, often seemed as ersatz as the silky blonde hues in his wife’s coiffeur; and sometimes he seemed to be aware of the problem, that what he was alleging sounded like reality, though it was probably not. For example, so little did Reno regard the veracity of all of Cruz’s testimony that he played very few of his tapes to the

Court, questioned Cruz as though he were an “alien” from another galaxy, and in summary tried to emphasize the strangeness of Cruz’s pigeon English, as though such rudimentary locutions, similar to baby talk, were the hallmark of true naiveté. But Reno, the prosecutor, later on accepted “avowals” from Defense Attorneys Nancy Grey Postero and Mike Picaretta that certain of Cruz’s allegations were “untrue.”

“If you can believe this witness,” he told the jury, in summation. He tried to get Cruz’s hearsay evidence of what went on during Cruz’s infiltration admitted, after the government failed to produce certain Central American witnesses, and even Carroll found that objectionable. Carroll said “a good faith effort” had not been made.

There were also certain definite irregularities about the recruitment of Cruz and his manner of payment. Cruz received stipends from the INS for his work as a “confidential informant,” but was also allowed to keep the money he received for posing as a “coyote.” Judge Carroll, of course, refused to allow the Defense to discuss Cruz’s motives before the jury. Once again he seemed obliged to show, in the words of the late J. Edgar Hoover, that justice and law and order had nothing to do with each other.

The main purpose of Cruz infiltrating Sanctuary was to show a conspiracy of recording various persons in the Movement communicating with each other on tape about a common interest, but in one celebrated instance the tape presented only Sphinx-like riddles. Cruz accosted one Salvadorian to ask how she had come across. He suggested “Peggy” and helped her (Peggy Hutchinson).

The woman’s response was inaudible, unclear. The Jury asked to hear that tape and the transcript during its deliberations, and, apparently decided the answer to Cruz’s question was yes.

It was a trial at which counsel was constantly asking for and making “good faith avowals” as to this or that. In such company, Cruz always appeared very nervous, as though he were being picked on by the Defense. How could he be expected to remember what he wrote on Government expense chits (which the Defense got the Prosecution to produce) “more than a year ago?”

Jesus Cruz was either self-pitying or else flattering. Caught up by Robert Hirsh’s jabbing, hectoring incessant cross-examination, he called the Defense attorney “an honor to the legal profession.”

When Hirsh got Cruz to say he began work for the INS on the Sanctuary investigation on March 25th, 1984, he immediately crossed the witness up by showing he had registered in a Nogales motel with Solomon Graham on March 24th. He insisted he was paid three hundred dollars by the Government for Xeroxing documents.

“Jesus showed up at my church,” the Reverend Fife recalled to free-lance writers Carol Ann Bassett and Sandy Toland, “Jesus presented himself as this nice little man eager to be helpful to refugees. I took him at face value.”

At Alzona Lutheran Church in Phoenix, Cruz attended Bible study sessions of the Book of Exodus, at which many illegals from El Salvador and Guatemala came to socialize and discuss. What he reported back to Rayburn and Reno led to the arrest of half the members of that Bible study group.

When Graham was removed from the witness lists because of affidavits from workers that he had been their procurer of prostitutes on several occasions since 1978, much of the Government’s case seemed to rest on the dubious Cruz who saw and recorded Sanctuary people

talking with the refugees and often, in the manner of a provocateur, suggested missions to get new refugees to the Movement, which he would then record as they were happening.

It was a little like the old Alan Funt TV show, “Candid Camera.” First the witness or defendant was set up by a suggestion from Cruz, and he acted out one seeming charge in the indictment, and then Cruz would also be there recording he or she in the act, doing or discussing it, except that his tapes snarled, ran out at inappropriate moments, or – like all of us in life or cinema verite, he didn’t always have the bug on record. This, in turn, helped to facilitate imagination, the gist of things, as it were. Reno insisted Cruz was “reliable,” but he was, of course, pretty nearly always vouching. The Defense had to admit he had a flare for recording embarrassing bits and pieces such as when the Rev. Fife was recorded being vain or uttering profanity. Cruz was a worrier. He hadn’t meant to betray the nice people in Sanctuary, but they were doing all his “coyote” friends out of business. So what else could he do? The Government, the INS, was the only game left open in town to him. He had expenses, a family, and he really didn’t want to get sent back to Mexico.

Judge Carroll ruled that Cruz seemed about as reliable a guide as the mystery of the Trinity, and that what Cruz had learned second hand from others was “inadmissible as hearsay,” but the tapes and what he had learned from his own experiences, even the tapes as he selectively had edited them with an on-off switch in the manner of some auteur sound director, were evidence .

When he was allowed to make a statement Father Quinones told the Court that Jesus Cruz had also threatened a refugee woman he knew with deportation because she wouldn’t testify against another refugee. The woman said she didn’t even know the man the INS was interested in.

The priest pleaded with Judge Carroll, who said he was familiar with INS appeals courts and procedures, not to allow this INS practice to go on any longer.

Agent John Nixon of the INS, who testified at length for the prosecution, also seemed as much malefactor as governmental functionary. When he went undercover among Sanctuary, Nixon was posing – usually with a ‘body bug’ – as a purchaser of farm equipment at auction, the thrice baptized husband of an Argentine. Agent Nixon was cross-examined by Hirsh about the transcripts he made of certain taped Sanctuary meetings. His recall was usually fragmentary, and hazy, as though carefully redacted; and Hirsh criticized him before Judge Carroll: “Judge, this is what Mr. Nixon did was take out parts that he wanted the jury to hear that he believed were advantageous to the Government... You can’t take part of a paragraph that is said by someone and relay only those portions of it...”

The Court: Let me interrupt there for a second, Mr. Hirsh and –

Hirsh: Well here is my offer, Judge, I offer –

The Court: Let me just say this, if I might. When Mr. Nixon testified, he didn’t testify by reading from a document. He gave oral testimony...

Now you may be bored with the rules of evidence, Mr. Hirsh, but we want to get to the bottom line.

Mr. Hirsh: I’m not bored. I don’t know why your Honor would say that.”

Judge Carroll seemed to enjoy riding Robert Hirsh a little when he was cross-examining or summing up. It was small-minded work, cutting a reputation down to size, as it were.

Carroll, on the other hand, always gave very great latitude to Reno, through witnesses Cruz and Nixon, with their tapes, made on location, in Nogales, Arizona, and Nogales, Mexico.

Here James Brosnahan tries to cross-examine Nixon about the legality of the taping:

Q. Now, did you have anything to do with monitoring what Mr. Cruz was doing and how he was doing it?

A. Only when he was in my company.

Q. Other than that, that was not your job, that was not your department?

A. That's correct.

Q. Did you ever talk to Mr. Cruz about whether or not he ought to tease Ana Benavidez about the fact that her brother was already in the United States?

A. I have no knowledge of what you are asking.

Q. Did you ever talk with Mr. Cruz about how he should approach Socorro Aquilar, who is my client, and how he ought to do that?

A. No, sir, I did not.

Q. You did instruct him not to record in Mexico; is that right?

A. On the one occasion I had the opportunity I kept his recorder when he went into Mexico.

Q. You instructed him not to record in Mexico?

A. Yes, sir.

Q. And you know that he did in this case, don't you?

A. I believe Agent Rayburn said he did one time.

Q. You also know that that is illegal in Mexico, isn't it?

A. No, sir, I don't know that.

Q. You have no information on that subject?

A. No, sir, I do not.

Q. You have never inquired whether it is legal to make tape recordings or an undercover investigation in Mexico?

A. My understanding is it is legal in the border area. The immediate border area.

Q. Now, when you instructed Mr. Cruz not to record and he did record in Mexico, was that a level of concern that you had when you learned that?

A. I'm sorry, would you –

Q. Did you – I didn't phrase it very well. Did you have a level of concern when you learned that Mr. Cruz had recorded in Mexico even though you had told him not to?

A. That was prior to my telling him not to.

Q. Well, when did you tell him not to record in Mexico?

A. It would have been on July the 9th, 1984.

Q. Mr. Rayburn told him not to record in Mexico when this investigation started, didn't he?

A. I can't answer for Mr. Rayburn.

Q. You just don't know anything about it?

A. I said I can't answer for Mr. Rayburn.

Q. I'm not asking whether you can answer for him. I am asking whether you and Mr. Rayburn ever discussed whether or not Mr. Rayburn told Mr. Cruz at the beginning of the investigation that Mr. Cruz should not record in Mexico?

A. I believe on May 25th of 1984, I heard Mr. Rayburn telling Mr. Cruz that.

It appears that Nixon was so busy developing and sustaining his cover; as an employee of Southwestern Vacter, a Phoenix area concern, that, according to his own testimony, he had little time or ability to familiarize himself with Sanctuary, which he was putatively investigating, and

what it was really about. Hirsh at one point inquired if he had read what was written about Sanctuary in any detail, and Nixon replied negatively.

Q. Well, there were reports on national news programs, on 60 Minutes about Sanctuary in 1983, were there not?

A. I believe so, yes.

Q. Did you see that?

A. No sir, I never saw those.

Q. Did you ever see a transcript of that 60 Minutes show?

A. No sir, I have never seen a transcript either.

Q. You know that that is contained in the file, in Mr. Rayburn's file?

A. Yes, sir, I do.

Q. Did you ever read any national magazine articles about Sanctuary?

A. I read one in 20/20 or People, I guess it was, People article

Q. About Jim Corbett?

A. Yes, sir.

Q. And that was in 1983?

A. I don't recall when I read it.

Q. Did you read any of the other articles that were published about Sanctuary or any of these other defendants in 1983?

MR. RENO: Your Honor, I object until there is a foundation laid as to what articles he's referring.

THE COURT: Overruled.

Q. BY MR. HIRSH: Did you do that, sir?

A. I read an article, I think it was published in '82 regarding Reverend Fife.

Q. And, in fact, a good many of these news articles were contained in Mr. Rayburn's INS files, were they not?

A. I'm not sure of that, sir.

Q. And after – if you weren't conversant with these articles by October, October of 1983, certainly in preparation for your undercover chores, you became conversant with all this information, did you not?

A. With all of it, no sir. I read some very select articles.

Q. Well, you did learn as a consequence of your investigation that sanctuary members were openly critical of the Immigration and Naturalization Service, did you not?

A. Yes, sir, I did.

Q. You did learn that sanctuary members were openly critical of the Immigration and Naturalization Services' asylum procedures?

A. Yes, sir, I did.

Time and again Jesus Cruz was also able to show himself as a runner of errands for Sister Darlene, and the Reverent Quinones, and others on behalf of the refugees. Had they done anything illegal? Cruz claimed at one point, with great effect, that the Reverend Quinones and the widow Socorro de Aguilar had given two Salvadorians a dead priest's passport and that of Socorro's dead husband. He said the two Salvadorians told him of this while they were being driven by Cruz from Nogales, Arizona to Phoenix. The man, who claimed he really couldn't understand English that well, also testified as to the gist of what Rev. Fife had to say, in pidgeon English: "I go last Saturday taking the people to the border, and get people in cars...." If that

was also a form of hearsay, it was allowed to stand and was damaging to the Defense because it showed Fife ‘comparing’ times past, as it were. Meantime, Cruz always charged the Government six dollars for parking.

The Jurors said they only believed Cruz when they had other means of corroborating what he’d alleged. Reno insisted he was “reliable,” and in his opening remarks to the jury portrayed him as a dedicated employee of the State and not as a fugitive himself who was working for Reno to avoid deportation.

Cruz seemed to wish not to flinch when he spoke but there was an occasional tick; and though he claimed imperfect English, he sometimes responded before the interpreter had asked him the question in Spanish.

He was always very respectful of Sanctuary and its lawyers as he was of Reno and “Mr. Jim” Rayburn, his INS handler. He didn’t seem to be out to get anybody in this, the refugees or the defendants, but when he first came across in 1948 from Mexico nobody had been very helpful to him. Asked to describe the people he infiltrated he was quick to call them “Christians.”

You could say Cruz and his nephew Jose Morales (aka Solomon Graham), were running a family business through the Government. Between February and November 1985, they received nearly six thousand dollars in witness fees, not to mention expenses.

In a press conference after one of Cruz’s appearances on the stand, the Reverend Dagoberto Qumnes declared, “I would like to be Christ at this moment so I can give Cruz a kiss on the cheek for the kiss he betrayed us with.”

Robert Hirsh, in calling for acquittal, discredited the Government's witness and its case in language that was a lot less histrionic and to the point: "It's disgusting," he told the jury.

"Disgusting."

"What you had," he told the jury, "was people that were 2,000 miles from home, who were fleeing oppression in their home land, and the churches were helping them...and they (the Government)...got Mr. Graham and Mr. Cruz, these professional deceivers, to come in and do this 9 month investigation...the Government doesn't usually dig dry holes," Hirsh went on.

"They had a lot of investment in this case...."

It's doubtful whether even Hirsh realized, then, how accurately he had summarized the affects of the Government's behavior.

Chapter III
RENO'S LAST STAND

“Ladies & Gentlemen, that’s the end
of the conspiracy, as known to
this investigation.”

Special U.S. Attorney Don Reno
November 1985.

“You break not Sanctuary in seizing him...
This Prince hath neither claimed it
nor deserved it,
and, therefore, in mens’ opinion,
cannot have it.”

Buckingham, Richard III

A joke made the rounds in court about the motto of Don Reno and Jesus Cruz: “We will
bug no church before it’s time.”

It was certainly true they showed extreme forbearance about importuning innocents,
whenever possible, and then not possible, they went ahead and did what they had to do.

Asst. Special U.S. Attorney Don Reno’s opening remarks to the jury were also marvelous
and wondrous strange, a six hour recitation of a conspiracy, or criminal “argument,” headed by
Corbett and Fife and Nicgorski as “Chief Executive officers,” Willis Conger “nuts and bolts

organizer,” and all the other defendants lumped together as what Reno called “transporters and smugglers,” or the “Nogales connection.”

Delivered without apparent notes, in a voice of calm, studied neutrality, with only occasional insinuations beyond the main charge, it was a minimalist work of verbal art with maximalist insinuations. Really Reno said very little: all eleven had openly admitted their mission as religious people was to be engaged in helping refugees; Reno contributed a name for a tautology, “smuggling,” and substituted “aliens” and “unindicted co-conspirator aliens” for “refugees” or “needy” or “the desperate.”

He also laid out a table of organization and equipment, complete with the designation of what he called “safe houses,” and their various locations, nothing more than churches and peoples’ homes and apartments. It took six hours because each point was elaborately decorated with charts of stock figures and “safe house” and “border crossings,” and “locations” and references to what “the evidence would show.” The news, however, aside from some paraphrased bits of tape-recorded local color, (such as that there’d been disagreements on occasions among the Sanctuary workers, and once Rev. Quinones had threatened to go to the INS if Phil Conger brought across a suspicious group of Guatemalans), was as minimal as ‘dietetic’ ice cream.

It was as though a physician, instead of telling a patient he had a cold, were to depict it as “catarrhous” infection and then describe the various persons in whom the cold germs had been lodging insidiously whom he may have coupled with, and then depicted their socio-economic statuses etc. and family structures, before finally depicting that open-mouthed sloppy kiss by which germs were propelled into the mouth of the soon-to-be ailing person from his wife or girlfriend. Reno’s bona fides proved to be essentially bogus, like iron feathers. He had no

motives to report on licitly. He was telling us only what Sanctuary would admit to, but hoping through his narrative to paint it all with a sallow, poisonous light.

People worried afterwards what affects Reno's speech might be having on the jury. "There weren't that many who were awake when he was finished," a New York Times man pointed out. It all sounded sensible enough, like the Inspector General in Gogol... talking to the Gold Dust Twins.

As a rule, Reno was guided by the belief he wished to instruct the jurors with that Sanctuary was really just posing at being virtuous; if pressed, they actually fell out among themselves, as when Father Quinones threatened to call the INS.

Partly the lack of evidence recorded by Jesus Cruz made this approach a necessity. He had lots of moments on tape but little solid evidence. He had Willis Conger telling the Hondurans they could take a walk in the desert with a gallon of water before they'd get any help from him, but no acts to connect this to, except for Jesus Cruz's memory of conversations in English, a language even he admitted he didn't always seem to understand.

He made much of Fife's boasting on one of the tapes that Burt Lancaster would be playing him in a television movie, but the petty vanities of eager Churchmen was not to be considered crimes, nor even very telling about who they really were.

It really didn't seem to be Don Reno's fault that he had to rely on Cruz. I'm sure he would have preferred to install TV cameras at the meetings in Sonora, and Nogales, Arizona. I'm sure he also would have preferred to have an Anglo member of the Sanctuary enterprise as his informant. But all he had was a Mexican priest receiving thank you notes from some refugees he helped and putting their \$100 in alms into his pocket.

Little things mean a lot, Reno might have told the jury. Note that Father Tony Clark talks more like a roughneck than a priest, and Phil Willis Conger has a tricky smile.

“Ladies and gentlemen, the evidence will show Jesus Cruz ran out of tape just as this conversation got really interesting.”

He didn't say that no self-respecting prosecutor would. He inferred. He cajoled the jury toward a conspiracy with Hollywood movie lines and metaphors. He wiped his brow and tried to look grave. He appealed to the Judge to rule against their common enemy, the Defendants. He wanted it known that he was a serious person, with religious convictions of his own, but he would never go against the Law unless it was to have a witness perjure himself.

If Special U.S. Attorney Don Reno had a way of making small things look downright petty and insidious, he also suffered from an accelerating form of male pattern baldness. During the pretrial hearings he only had a small defoliated area on the back of his crown, but as we went from jury selection to his opening statement and then the trial itself, the fallout area alone enlarged until it resembled nothing less than a helicopter pad in dense jungle.

Those of us with the press, who saw Reno, mostly from the rear, speculated on what kind of destruction was taking place on his seat of reason. Should we have him rush immediately to his nearest Thomas treatment center? Buy a 'rug'? Wear a hat?

He continually worried the area with the flat of his palm, though he did not wish to seem unduly alarmed, more like a man on fire trying to appear demure.

One day I had the pleasure of standing by his side in a public place and, shoulder to shoulder, I declared he had one hell of a memory. Had he taken any memory aid courses? I was referring to his nearly six hour opening remarks, delivered from hardly any notes, a tale of

conspiracy and betrayal, with undertones of Joseph Conrad's "Under Western Eyes," as set in Naco. He announced, "You too could do that if you'd read the evidence as much as I have...."

Another time I watched him take lunch with Miss Grabowski, a yellow legal pad to one side of him, beer by the other elbow. He seemed to be a very hard worker. People usually do work hard when they have to make much of little. The bar man told me it was like that every day with Mr. Reno. "Not much small talk." He acted like a schoolboy who was cramming for a test.

When I asked about his "methodology," flat of palm went up to the back of head again like a comedian's clapstick. I could tell from the rubrics he used to move from one point to the next in his opening statement he had some system of memory aids. Proceeding from rhetorical way station to rhetorical pit stop on the route to demand convictions, like a man who sells septic tanks by arguing against the use of pumps, chemicals, bacteria or a sewer bond issue, Reno refused to set his sights shorter than selling the jury one of his jiffy new double poured-concrete vented septic tanks.

"We can best describe this case as an alien smuggling case...."

"Ladies and Gentlemen, what I have to say to you now is not a fact...."

"Ladies and Gentlemen, this alien smuggling case was conceived by Mr. Fife and Mr. Corbett (acquitted)..."

"The first tier of the conspiracy (directors, generals) set the goals and directions..."

"Many of the aliens were delivered to the second tier...."

"Hispanic informants were used because all the witnesses are Hispanics...."

"Informants are effective ways to investigate...."

"Mr. Cruz was chosen because of his demeanor, appearance, and...."

“Meanwhile, back at Mrs. Aguilar’s house....”

“The next series of transactions is a little bit complicated, ladies and gentlemen....”

“This is the day ‘Federico’ and ‘Joel’ are going to make another illegal entry into the USA....”

“Ladies and Gentlemen, when we left off we were at Sister Nicgorski’s....”

It reminded me at times of certain “soaps” from my childhood. Reno’s unenviable task was to try to make a hastily improvised series of scenes depicting good deeds seem like “criminal intent.”

His calm flat manner and crude movie similes, as with our leader, Ronald Reagan, must have made a memorized scenario somewhat credible to the jurors: “You will see pictures of them (the aliens), pictures taken by Sister Nicgorski....”

“Father Quinones,” he pointed out, more than once. “...accepts another \$100 and a note from Mrs. Benavides....”

Reno seemed to have a well-founded opinion, possibly drawn from his self-knowledge, his estimation of his own character, that putting a virtuous face on human acts did little to disguise their essential mendacity. Father Quinones was seen taking money by a professional snitch: it must be that witness and subject were alike. A man who spent his time vetting undercover tape recordings of the unsuspecting could only infer that the ways in which their private interchanges differed from their public attitudes was evidence of bad faith. He was the sort of man who probably thought public lavatories were for entrapping homosexuals. He mimicked shock at a priest taking money, a nun on friendly terms with the insurgents in a civil war, a Reverend who could display open vanity.

Much of this was, of course, the standard prosecutorial ploy of displaying ordinary behavior as suspect, perhaps even circumstantial evidence. He was always suggesting to the jury that they should be patient, and perhaps suggestible, of a like mindedness, and his meanings (his proofs?) would surely come clear to them. He had a lot of charts and graphs made up to bolster his insinuations to the jury that their sympathies for the Sanctuary defendants were, at best, unfounded, and perhaps had been manipulated fairly unscrupulously. Other people were unscrupulous, whereas Reno was just serving his fellow citizens by suggesting to Judge Carroll, on more than one occasion, that the lawyers for the defense should be disciplined, or contempt charges brought against them.

Reno's primary contempt was of any court of justice which was not serving the political aims of the State. When asked if he had been aware that one material witness was alleged by the Department of State to be a 'Communist,' Reno said he had, but did not feel obliged to notify the Defense.

Reno played a scrupulous man who knew of acts so gross he felt ashamed to mention them publicly to decent jurors "like you, ladies and gentlemen." After all, it was one thing for Reverend Fife, in his capacity as CEO, giving directions to Cruz, who was transporting some refugees to LA, in order to avoid police checkpoints, but it was really more than just inferential to say Father Quinones had put \$100 into his pocket.

Toward the end of his 6 hour pitch, Reno declared the investigation was "starting to wind down," and when he could produce no more evidence of substance he even 'vouched' for the guilt of the defendants, and was mildly censured by Judge Carroll for doing so.

Now we stood together washing our hands some days afterwards in another place of pristine white and black tiles, and I found myself wishing to vouch truly that he needed succor for his scalp.

“You must be losing your hair,” I said. “It happened to me once....”

“I’ll be going now,” he said.

“I lost quite a lot of hair a few years back,” I said. “you’ll get used to it.”

His eyebrows arched. He stepped on a flush pedal, as though for emphases.

“What are you telling me?”

“It will soon be gone all right,” I said. “All of it or most...”

“Thank you very much for your interest,” he said, like a civil servant.

Once, with the jury present, Reno asked his star witness, Cruz: “When you hear people speak in the English language, can you understand them?”

“I can understand some things,” Cruz replied, to the interpreter in Spanish, “not correctly, but more or less I can surmise what they mean.”

Cruz’s memory was probably no better than his comprehension, and yet Reno was prepared to rely on it. He portrayed Cruz to the jury as a veteran governmental investigator with as much probity as St. Augustine, after he’d repudiated his prior life of vice and crime.

And this was important to the prosecution’s case because Cruz was always being allowed to characterize people in Sanctuary from what they said and how they looked to him. When Father Quinones and Phil Willis Conger had a disagreement about some Guatemalans, the father took on the appearance of a person, “in Cruz’s eyes” who was “angry or pretty upset.” Or was

Cruz perhaps understanding some things “not correctly?” (Even Judge Carroll eventually found he had to criticize the INS, especially Jesus Cruz’s handler, Special Agent Jim Rayburn, for behavior verging on “contempt of court” and “perjury,” though he held back until June 12 to rule, well after a verdict was in. Carroll found himself particularly miffed about INS record keeping on Cruz – of the cases he’d work on, his payments, and his other INS associations.

During the trial, there had been numerous delays because of the slipshod manner in which the INS produced records and evidence on discovery. On June 12, responding to a defense motion of February 18th, requesting the INS be cited for contempt, and stating that Cruz lied on the stand about his payments from the Government and Rayburn covered for him by failing to produce records of payments to Cruz, Carroll ruled, with his usual tenacious loyalty to his employer, the State, “the giving of false and evasive testimony does not in itself constitute contempt.”

The Judge went on to criticize the INS as Governmental agency, and Rayburn in particular, for failing to review past records thoroughly: “...gross negligence in reviewing these records is inexcusable and resulted in a delay in the proceedings.” But, he wrote, “the court finds that it cannot conclude that either Cruz or Rayburn bore the requisite intent to support a finding of criminal contempt.”)

Whenever called upon by bald-faced INS acts to criticize the Government or its witnesses, Carroll would heap on the pejoratives: “inattention,” “neglect,” “carelessness;” he never questioned the Government’s intent as he did constantly with the Defense, who were, in his opinion, out to give his trial an evasive shuffle. The Government’s intent, so similar to Carroll’s own, was to convict and serve as a warning, whereas the Defense was only interested in acquittal, and making a political trial of the indictments, Carroll perceived. Thus he exculpated

the INS with mild reproaches even as he was allowing fraudulent testimony and inadequate record-keeping to paint a picture of Jesus Cruz's activities as undercover informant which were as removed from the whole as Guatemala is from Nicaragua, at present. Of old man Karamozov, Dostoevsky says there are some ole liars who lie all the time, and do nothing else but lie, and, when you catch them in a lie, say I know I'm lying but nevertheless....

In March, Reno granted an interview to Dan Browning of the Arizona Daily Star. His seeming intent was self-portrayal as a religious person, as though to counter the PR of the Holy Joes in the Sanctuary movement. When Reno later insisted some of the things he told Browning were not on the record Browning produced tapes to show they, in fact, had been.

After having his wife vouch for his religious beliefs ("one of the most religious people I know. He reads the Bible every day,") Reno went on to unburden himself about the case, like Iago explaining himself to Bianca.

"This is not the sunrise and sunset of this Nation" he pointed out. "I can just say, from the experiences I've had with people that I know if I sat down and talked to them about this case that is going on right now, it would not maintain their attention span for two minutes."

"The mainline American," Reno continued, "the guy that gets up and goes to work in the factory, sells insurance, whatever he does, to him, he can't relate to this, all this constitutional law that we're involved with right here."

He insisted only a minority of Americans saw the Government as an "ogre."

People are always citing the views of the "mainline American" to justify special privileges, and discriminatory immigration practices are a form of special privileges.

When asked to compare Sanctuary to farmers who also imported undocumented labor from Mexico and Central America, Reno became a tad more polemical than one who, according to his wife, was only interested in the “constitutional aspect” of the trial, and perhaps the life here-after.

“They (farmers) are not out there standing before the media saying “I’m selling a national franchise and I’d like for you to take as many aliens as I can possibly get to you, and they’ll all be prequalified and packaged...and we’ll send you the materials and we’ll tell you how to market the product when you get it, assuming that your politics or your interpretation of the Bible is consistent with ours.”

Reno could be as cunning as he was not stupid. It’s surprising he hadn’t tried harder to make the press and media “unindicted co-conspirators” in his broadside indictment of Sanctuary. He did try to get one Arizona Daily Star photographer on the stand about certain photos he’d made and printed on the border of Sanctuary putting through refugees. But what about the producers of “60 Minutes” which had given so much publicity to what were alleged to be illicit, and/or illegal, activities right from the start, and which gave so much publicity to the cause (being the top rated News Program on Network TV) that it, along with other publicity, greatly alarmed the INS and other Washington officials? If you’re going to charge people with conspiracy, why not allege the Press was also engaging in acts of furtherance to the breaking of the law?

Aside from the fact that CBS was rich and powerful, and Sanctuary was still fairly poor and localized at that point, it’s also true that one special U.S. Attorney with a big ego and a very small staff, by his own choice, cannot take on windmills, when there are perfectly serviceable windbags nearby to deflate.

In general, Reno's conduct was studiously academic and sterile, as though he'd put together his case on 3 by 5 index cards from citations he'd managed to gather up here and there. They all made a sort of sense, led somewhere, but had as much to do with the actual behavior of real human beings as a U.S. Army pre-induction medical questionnaire which asked GIs whether they have "regular periods."

Reno seemed to wish his inferences about Sanctuary's conspiracy to exist in a fairly hypothetical atmosphere.

He was like a certain graduate student spinning out his tenuous research from index card to index card in order that his hypothesis held up, though it was just a lot of academic inferences and good and bad hunches.

But, once in a while, chunks of our common human experience intruded on Reno's sterile reconstructions and the staged responses of the witnesses to his importuning of them. When Miriam Hernandez, a Guatemalan refugee using an alias, told how Wendy Lewin had fainted during Miriam's giving birth when the doctor administered serum, there was giggling in the courtroom, acknowledgement of our common human frailties, so Reno, of course, objected to the inclusion of this piece of testimony and, naturally Judge Carroll sustained him.

Sometimes intrusion of a very real event, such as Wendy's squeamishness, when set against such highly schematized and hermetic discussions of aliens and refugees by the Prosecution and Defense, was like a stink bomb going off in court. Because they were deemed "impertinent" such events had to be expunged. The jury heard a little of them, though, and to them they must have been like a Catholic priest gesticulating from the pulpit with a vibrator, to illustrate a sermon on the noises of Eternity. As I've said, some in the jury weren't very fond of Wendy Lewin's hippy style and melancholy baleful glances (much less that her husband was a

Salvadorian), which didn't lead them to think she was a felon; but they did think she was not like them. "Some people get what they set out to get," a juror told me.

A postscript about Jesus Cruz: Whenever he answered to the Defense, he looked like he was having a migraine attack: his whole face would appear to squint and smile, obligingly, as though his high forehead was being attacked by a timpanist's mallets. He was surely, to his own thinking, as much victim as victimizer. He'd not been born into the Family Montes De Ocan, but in North Central Mexico, into a large poor unhealthy Mexican family. He'd come to the States undocumented and almost immediately became a "coyote," collecting as much as three hundred a head from labor contractors to supply them with workers who got under scale, in addition to what he could scavenge from his human merchandize for taking them across the line.

According to the writer John Manchip White, "coyotes" will usually have a collection of green cards and they will match them as best they can to the faces in their human cargoes and then collect them again, once across the line.

But "it's an easy matter, if further insurance is needed, to slit the plastic covering of a stolen mica, as they're called, with a razor blade, insert a perfectly genuine photograph of the new owner, and reseal it with glue or hot iron."

If Jesus Cruz was as adept at all such sorceristic arts, as he became about lying as to where he had last crossed over, and where he now worked, he was a true chivarro, with the most grinding necessities, a wife and children as dependent on his earnings as mainlined 'Toot.' He transported refugees, or arms for the Pan, provided contractors with cheap labor or, his suffering vanloads, with grapefruits of questionable origins. He was no monster, except in the Thomistic sense of the word, to signify a creature deformed by the nature of his life and experiences.

Cruz always had good things to say about the intentions of the Sanctuary people; he condescended toward them, regarded them as well-intentioned though benighted, similar to Reno's own self-stated opinion of them. He reserved his most reverential respect for "Mr. Jim" Rayburn of the INS. He spoke of him as the kids in the Boys Town movie usually spoke of Spencer Tracey playing Father Flanagan, and yet some of what he had to tell the Court should have been embarrassing to Rayburn and Don Reno who had chosen him to be their witness. Whenever he had any real duty to report on Fife or the others, the tape in his body bug always seemed to have run out, and he had to depend on the memory of conversations in English which he couldn't really follow, he admitted: ...words to that effect.... Cruz claimed he'd been given the right to decide what he should record as evidence and what he should leave unmemorialized. He left the impression that there were certain needy people in the world, such as the aliens, but he was certainly the neediest of all. Mexico is such a place of injustice it's hard not to feel pity for even citizen Jesus Cruz. He's grown up with boys who were sent off to slavery in the hemp fields of the Yucatan. As Cruz himself said from the stand: "After 2 weeks is no business for live in Mexico."

In the coffee shop of a nearby hotel the good Reverend Fife is having lunch served by an undocumented from Chihuahua while having his picture taken. His wife and youngest son are sitting with him. Reno is down the block and around the corner with his assistant John Craburski drinking from glasses that have been washed by the undocumented. The Judge has his lunch sent in to his chambers, delivered probably by an undocumented. I've just come back from cashing a check from Valley National Bank which owns White Wing Ranch in Dateland which employs many hundreds of illegals and undocumented.

Tucson is still a small town, though it has grown to half a million in population. Everybody seems to know everybody else and nobody seems to know the undocumented. They wash floors and cars, and have trouble getting admitted to hospitals, or receiving food stamps. If you own a horse they feed him and clean his stall.

The Reverend is eating two tables away from two jurors, an overweight woman and a florid-faced haggard woman. Mrs. Fife has a beautiful figure and does her own housework, not awfully well, I thought, to judge from a recent visit. Overweight women eat salads, Mrs. Fife drank iced tea. Three tables beyond are some journalists. Anybody who wants to can hear their conversation and relay it on down to the other tables in the room.

His Honor has urged and required of jurors, at every possible opportunity, not to talk about the trial, read about it, and watch news of it on TV. Here they are seated two tables from the Reverend, as though put there, by accident or curiosity, to overhear all manner of ecclesiastical gossip. Splitting hairs with my green salad, I say, "His Honor is a sore winner...and so is Mr. Reno. They're both sore winners." Everybody glances about for napkins to hide behind. Some functionaries from Sanctuary's media office arrive. "They're beginning to make me just as sore," I add. Fife shrugs to himself. "Keep in touch," he says, rising a little into a sort of crouch. He has been confessing to a friend how his life has narrowed down the last few months to going to Court, and not much else. Now the Reverend is needed at the Sanctuary offices for a private conference.

He gets up, tall and lean and tailored, above his sharp tanned face, steward of Right action or just the souls of his particular Southside flock.

I picture him as some sort of *Maitre D* seating people for pie in the sky in the life to come, here or on another astral plane, and making sure there's no favoritism and all get served,

but I can also see the jurors gossiping together avidly. They are forming their own opinions from whatever evidence is at hand. Fife says, “Reno just went fishing today is all and the Judge let him -- egregious.” His wife says he can be overheard. I ask her what’s the proper name for her husband’s color-coordinated clerical shirts. “A clerical shirt,” she says, then adds, as he departs, “I don’t know if they have any other name...I just wash them and iron them.”

Some people were apt to say Reno really believed he was doing the right thing by prosecuting the Defendants. If so, that was no excuse, but I believe right and wrong for Reno were largely matters of *comme il faut*. He did what was necessary for himself and his friends.

So many public servants in this Country make their public reputations and, later great fortunes, by battenning on to the alleged and/or real misdeeds of others, as prosecutors, that it seems reasonable to suppose opportunity for some of these men is often a question of getting to slander and cozen others with the full resources of the State at their disposal.

The millions of dollars spent to prosecute Sanctuary also helped to give Mr. Reno’s name recognition with the public. If he didn’t decide to run for Congress, he might very well declare himself a Minister of God, open up a large law office, or make his fortune with one of the corporations.

Through his efforts, and undercover agents, Mr. Reno was able to declare himself a victor in Court. He invited relatives and friends in court for the sentencing. If you think such twerps in high places are less dangerous than Sister Darlene Nicgorski helping ‘illegal’ refugees, you probably also believe Mr. Giuliani, the U.S. Attorney in New York, has no other motives than policing civic virtue.

Reno was difficult to interview. He wanted the public to see him just as he presented himself in court, as business-like, brusque, sincere, and without affectation. His success with the

jury was only surprising if you can't recall that Americans voted twice to elect Ronald Reagan then President.

Chapter IV
FOR THE DEFENSE

“What an opportunity for a lawyer,” the bright young pro-bono counsel for the Defense exclaimed. “Despite the financial sacrifices I couldn’t turn it down and I wouldn’t.”

With a new partner in expensive office, he’d only just reentered private practice, when he was asked to come on the Defense. The trial went on, months longer than he had calculated. Like many, he was running out of cash. One defense Attorney, who’d made a fortune in negligence work, told friends he was going to have to declare bankruptcy and borrowed \$50,000 to stay with the trial.

“We talk about it a lot,” the eager young lawyer said. “None of us is sorry. Do you think an opportunity like this to work with so many fine lawyers so closely happens all the time? Most lawyers never get the chance...we’ve talked about that too...we’re the lucky ones, despite some sacrifices...”

When the verdict came in against them, most of the voluntary counsel expressed complete surprise, anger, chagrin; no one said they were sorry for having served. At least three of the attorneys were being paid by the court as court-appointed, or in the case of Tom Hoidal, who represented Nena Macdonald (a very peripheral defendant to the main conspiracy charge who was one of the acquitted) as a member of the Public Defender’s office in Phoenix, and Ellen Yarshevsky, who represented Wendy Lewin, was a salaried staff member of the Center for Constitutional Rights in New York assigned to the case for which she received \$24,500 a year. Private attorneys such as Hirsh and Butler were making the greatest financial sacrifices but they were not really complaining, just astonished by all the time and attention it took from them, and

all those who came from out of town received a meager per diem living allowance of \$20 for food etc.

The lawyers were motivated by political conviction, animosity toward the INS, *esprit de corps*, ambition. It was clear as soon as the indictments were handed down, one pointed out to me, that this would be one for the “history books.” One firm donated not only its lawyers, but a couple of clerks and secretaries, which, of course only exacerbated feelings when Judge Carroll treated the trial as a common “alien smuggling case.” By his reductionism and recalcitrance toward their arguments, Carroll was not only “screwing” their clients out of precious free speech rights “but he was pruning everything, to his level.”

Sanctuary had always been a voluntary association. Now, as always, it depended on voluntary financial assistance from the churches and the community, as well as voluntary legal and PR assistance; since so many good lawyers were willing to contribute all or some of their services, it seemed impossible to keep them all from participating in court in the case, with arguments and summations which, it sometimes seemed, were like too much of a good thing. If Sanctuary had had only one spokesman in court, that person’s arguments on behalf of the various clients might have been easier, and less tedious, to follow. The others could still have been on hand to advise, scrutinize, make objections, motions, write briefs, etc.

Knowing they would someday make the case books with this trial, (and all being genuinely respectful of their clients), Sanctuary’s panoply seemed generally congenial with each other. There was backbite, though very little of it ever got public; when Carroll attacked or threatened one, the others almost always sprang up to defend their colleague. “I’ve been a lot better paid,” said one, “but I’m not sorry I did it.”

Barred from conducting interviews inside the courthouse, constantly having to wait for action in between recesses and bench conferences, the press which was competitive, would have to make the commitment of sitting many weeks at a time to get only bits and pieces. The Times had two able stringers on hand, but was constantly sending in regional correspondents unfamiliar with the issues in the case or the details of litigation so far. What was being said in court was rarely being heard by the jurors, and the press in reporting had to bear this in mind so as not to sound too oracular about an outcome which was taking its sweet time about happening. At least 3 books were also being written, aside from mine, and since the testimony was often fragmentary and sporadic and less than spectacular, we were all doing a lot of back-grounding and boning up. Aside from the Christian Science Monitor, which covered the story well and extensively through a stringer, overnight stories about the trial were rarely even carried by the large Eastern newspapers.

My Local, Newsday, had a story about once a week, and that was mostly color. The local Arizona Daily Star covered the trial extensively and well with Mark Turner and Dan Browning, and steadfastly refused to editorialize until the verdict was in, whereupon it declared that convicting Sanctuary was an error of justice. Needless to say that provoked a lot of irate letters to the editor from people in the community. Some of the religious news media did a thorough job, too thorough, perhaps. They reported much more than the jury ever was allowed to hear and may, therefore, have led their readers astray, as to the eventual verdict.

The writer Grace Paley came to Tucson to read at the University and attended the trial briefly. At a public gathering, she compared what she saw to writing a short story which was

only “one-generational.” The jury, she pointed out, with considerable anger, were being compelled to view the acts of Sanctuary and the alien-refugees in a “one-generational context” because we’re “hearing only what some refugees (and some other people) did, not why they were forced to do what they did.”

“Most of what the jury heard was that a “refugee” came here...once the jury was gone, the Defense were able to talk a great deal...all the Defense lawyers got up...and explained exactly what happened to him (a witness)...why he was terrified....”

“...That’s what we learned,” she went on, “but that’s not what the jury learned. So now I have to think a great deal about what “really” happened....”

Grace Paley would have been even more chagrined had she known that some of the jurors when chosen, who had expressed something like sympathy for Sanctuary, were convinced by the instructions of Judge Carroll that they had no right to keep an independent conscience about the trial. One juror, who told the Defense during voir dire, he first heard of Sanctuary when he read about those Salvadorians who perished in the desert, voted for conviction with all the others, and when questioned immediately afterwards by the press about his vote, became angry, almost violent.

Flying back to New York in the middle of the proceedings to give a reading, I was asked by my seatmate what I had been up to in Tucson. I said I was covering the “Sanctuary Trial,” among other things. “Oh that one,” he said. “With the priests. I don’t read much about that anymore even when I see a story. I guess I thought that had been settled so long ago.”

I replied, “It only seems like so long ago.”

A woman of my acquaintance drove twice all the way from San Francisco to attend the trial. Presumably she would be writing something for a legal journal, though her fee was far outweighed by expenses. She came because she believed as we all did, all the regulars with only the most rinky-dink assignments, that something important was happening in Tucson between the Government and the respectable religious left, as it was most assuredly not happening anywhere else on the left in the USA.

Time and again people from the gallery, veterans of the Sixties and Seventies, with all their discouragement, would tell me Sanctuary was the most “important grass roots movement” in the Country today.

In the gallery – sitting like doctors in an amphitheatre – studying what was being done to a patient who was always in danger of becoming a corpse – we watched for signs, colloquied each other on what we’d just seen and heard, and were usually disappointed. The Defense might very well win an acquittal, here, or later on appeal, but the jurors were giving no signs of yea or nay. They were the same sort of decent – seeming, ordinary, Middle American types the sophisticated left has always scorned as petty bourgeois, or ‘straight.’ The Defense stood up like Saguaros when they entered and left the court, and one juror later told me she thought they were just mocking her by such shows of the perfunctory courtesies.

Tucson is a city of numerous older retired, senior citizens. Many were ex-military, and most not too well off. Regulars to the gallery at the Sanctuary trial were also a number of retired clergy, and military chaplains and their wives. These ecclesiasts dressed in leisure suits and tacky resort wear, like anybody else, and behaved as though quite metaphysically uneasy about being members of the new leisure classes, but they were also fairly knowledgeable about Central America where many had been either missionaries, or chaplains in the Canal Zone. They were

always extremely attentive to every word said in court and all great partisans of Sanctuary, as though this ragtag organization of volunteers had somehow justified their careers for them as Christians serving the US Empire.

“Do you believe in punishment?” a retired cleric asked me one day. “What do you really think?”

“Only in this world,” I said. “Not in the next.”

“That’s very strange,” he said. “Don’t you find this whole thing very strange? I mean the trial...”

“I do indeed,” I said.

“I think we’re in for trouble with these Government people,” he said.

“That’s usually what’s suggested by an indictment and a trial,” I pointed out.

“You’d think they’d have better things to do, you’d think so. I guess it’s their job.”

“Better things to do,” I said, “are not what Mr. Reno and Mr. Rayburn are all about.”

“And the Judge,” he added. “He’s an asset too, as ass-set to the Law...”

To guarantee themselves a seat, the ecclesiastical contingent arrived at court in the desert darkness as early as six in the morning; on days of particular excitement, when they could have been displaced by newcomers, they stayed through the entire days’ proceedings, without hardly ever leaving their seats. Always their expressions were of a fixed beatitude. They worried a lot for their favorites among the defendants; they beamed at each other with pride; and expressed generous scorn for the Judge and the Prosecutor. When A. Bates Butler summed up, I heard one retired Minister tell another, “Now that’s a Presbyterian for you. I’m so proud of him.”

“I’m so proud of him/or her” was constantly said by the gallery. “I’m so proud of Hirsh. A man like that. Imagine.”

It was as though they were congratulating the brain-damaged, or a group of schizophrenics for not acting out.

The Christian mission toward the Central American aliens being detained in the U.S. at spanking new INS centers such as the one in Oakdale, Louisiana, was not without real urgency; as many as 50 persons were being deported every week from that Center in the swamps alone in Central America, and Sanctuary, though not the only interventionist group, was nearly alone in trying to keep aliens out of the hands of INS officials before they had received proper ‘legal’ counsel. At remote centers like Oakdale, and others in the Southwest, the Government seemed determined to get detainees to sign away their rights to legal counsel and an attorney to become a part of the Government’s deportation mill. One Christian group that also addressed itself to redressing this problem was the Ecumenical Immigration Service, severely understaffed, with very few lawyers and not that many paralegals.

Most of the Christians who attended the trial had an informed layperson’s knowledge of the injustices toward Central Americans Sanctuary was seeking to meliorate. They were also very disturbed by Governmental intrusions into the churches which culminated in the Sanctuary undercover investigation, which they regarded as an injustice of a wholly different order of malevolence: Unprecedented, unconstitutional, threatening.

“I’m so proud so proud of all of them,” a Colorado Unitarian cleric said to me in the darkness by the courtroom door that morning. We were the only two adults on hand, but Gene Varna of the Phoenix Republican had his student stand-in holding a place in line for him until he arrived around 8:30. This minister looked cold and shivery, as though more ectoplasm than flesh. He refused some of my hot coffee, said he would wait. He’d been coming every morning that week at 6:00 AM often driving to Tucson from Fort Collins, Colorado to stand in the cold darkness and be panhandled by the local hobo population. I asked was his Unitarian church a worshipping church. “If you mean Christ, these are the true Christians,” he said, of the defendants, “and a rarity in my own experience.”

In a little while we were joined by another retired Presbyterian from Pennsylvania who’d had considered missionary experience south of the Border, and had even visited Revolutionary Nicaragua. He was considerably engagé, with a stark white turn-around collar betokening the martyr’s separation of head from body; and he seemed very suspicious of me because I wasn’t as partisan for Sanctuary as he was. I felt as though I had been called to witness on the behavior of Saints. Had there been two, or three, verifiable miracles? “I tell thee churlish priest....”

As dawn broke at 7:00, our party was joined by that pretty slim young woman who’d recently been a sequestered nun and dressed in Lerner Shop chic. I asked if she was a Sanctuary fan or just a witness. “Love of God and reverence and awe,” she told me very straight, “doesn’t stop at the altar. These people have – and she seemed to search her memory for Corbett-like Hebraism to be enunciated in her flat Midwestern dulcets: “ – soul – is the word I’m looking for...Neshoma....”

Starlings screeched at the dawn. I felt a lion stirring in my pants at sight of such insouciant innocence.

“Why are you here?” asked the Presbyterian. The Lerner shop nun and the Unitarian turned our way again. I recalled seeing Soviet spokesman Gyorgi Arbatov on “Nightline” just that previous evening declaring the Sanctuary trial proved the US was hardly kinder to its dissidents than the Soviet Union.

“Are you political?” my Presbyter friend wondered.

(Perhaps I was being too personal. There was nothing sacred about my rage.)

“I’m political,” I added. “I’m just not a Christian.”

Later that same day I found myself during one of the recesses standing next to the brother of the Reverend Father Dagoberto Quinones, a Defendant.

A journalist from Sonora, the brother, was pudgy, well-groomed, sort of hip and protective toward his kid brother. He came every day to the trial and seemed to speak and understand only Spanish. We made the usual conversation about what a “hijoputa” Judge Carroll had turned out to be, and then I asked if his brother, the priest, was in fact as avaricious as he’d been portrayed by Reno, with his hand always putting money into his pockets.

“My brother was feeding thirteen at a time in that church,” he pointed out, “and taking food to the refugees detained in Sonora Prison. How far do you think one hundred dollars goes?”

PART III

Part III

Chapter 1

“FIFE”

It was easy to guess why he wasn't liked by some jurors. He seemed a little self-centered and smug, a tall gangly man with an array of party colored clerical shirts, and fancy boots.

There was something definitely too loose-limbed and tight-hipped and gawky and lanky about his swagger – and its hard not to swagger in high-heeled boots. He joked a lot, and seemed to show no reverence toward established authority. He chain smoked, looked like the type of man who might have an eye for women. His wife was pretty, his sons straight and true. He was well-beloved by his congregation, and weren't they all Mex, and Yacquis, Orientals, the Lord knows what...?

Fife seemed to have an eye for publicity, getting his congregation to put up those hand painted signs all about his church – which abutted a dumpster depot in South Tucson: “This is a Sanctuary for the oppressed of Central America.” Always on TV because he was sort of photogenic and in the newspapers, speaking out for every liberal cause. A big deal in the Tucson Ecumenical Council which was nothing but a bunch of bleeding hearts and symps. Was that any way for a Presbyterian to act? Praise the Lord...

Fife was a Minister's son gone bad. In College he'd practically been a playboy until he had a talking to with an older Minister friend and went to Theology School on scholarship. (Probably because he was too lazy to go out and work for a living.) He didn't seem to take on many social or economic airs, but he sure made a big fuss out of the working classes, and he seemed to spend entirely too much time just having a good time. As one old Tucsonan put it, “He'd be a nigger lover, if there were any hereabouts to love.”

Fife's views were certainly notorious. He'd been to Central America, even Nicaragua, and he was scared of the BOMB, and said so in his sermons. "Just about as ecumenical as a damned Catholic," one Marshall said. He was always opening up his mouth about schools and Head Start programs, welfare, food stamps, peace with Russia, soup kitchens for the vagrant poor.

A nice guy maybe, but maybe he was some kind of you know red...comparing himself, at times, to Dr. Martin Luther King...The more open Fife seemed the more some Tucsonans suspected him of being in secret collusion. He was open to the point of making public announcements and writing letters to the Justice Department about Sanctuary, so the Government called it a "conspiracy." Maybe he drank, or took dope, like some of those attorneys....Anyway what's he trying to prove? He'd ministered to Indian reservations and the tense inner cities of the Midwest. Middle class gentiles have their own problems...

I made it my business to see Fife at work one Sunday morning at the small blue church in working class South Tucson. It was a clear blue-skied sunny day and the little belfry above the church and its Head Start wing, which spreads like an arm to one side of the central nave, seemed a cutout in a child's popup against the startling azure heavens.

The bare white interior of the church was arranged like arena theatre with grandstands on two sides, a large handsome rude cross, an altar, a bell pull. Fife was in a long white hooded robe and he went back and forth among his congregants with considerable good cheer, praying for the sick, mourning the dead, expressing pleasure at accomplishments. Most of the congregation was dark-skinned, a few blacks, Orientals, Latinos, and Indians, but the Anglo seated next to me was a physician and a trustee.

Fife preached a modified late model Social Gospel, heavy on social issues such as peace, but notably void of ideological poopadoop. The message was simply God's love for the Creation, this Earth and Humankind. The preachment was sparing. There was discussion. Fife seemed well-liked. He seemed as though he did not so much wish to change the world as to make it live up to its Christian pretensions. Fife spoke of the lion lying down with the lamb as though to do otherwise was truly hostile and perverse.

His attorney, Robert Hirsh, was present and Fife pointed him out to the congregation as "my attorney" and made a little joke about Hirsh's special need for prayer at this moment, three or four weeks into the trial.

In his pristine white raiment, Fife seemed almost correct, though perhaps a little short on traditional reverence and intimidation. A welfare mother participated, a Chicago soloist, a mesitzo chorus of voices. Fife intoned from contemporary words as well as scripture.

He seemed remarkably unself-righteous then, strong on good works, and kindness. He knew people's names and what they were going through, economically and medically. He always seemed to be wiping a grin from his face, as though to say, "I'm not a Saint you know and I'm certainly not a hero." Was he like Corbett, a self-proclaimed orgiast? Randy as a quail in the desert?

"I don't want to serve time," he confided to me later, "but I'm prepared to..." A man who put himself out for others but was not without some knowledge of himself and his own needs. As the congregation gathered around him outside afterwards, I felt their sense of communion with him and a solidarity among them. This was no Reverend Slern Coffin or Bishop Pike or Billy Sunday, just a nice straight guy trying to be an honest preacher.

Fife had written to then Attorney General William French Smith (when his congregation voted to give Sanctuary): “We take this action because we believe the current policy and practice of the US Government with regard to Central American refugees is illegal and immoral...”

Every American used to have the right to call his government’s actions “illegal and immoral.” IT is not even seditious to say Ronald Reagan is a goddamned narcissistic son of a bitch surrounded by flatterers and cutpurses. Fife, though, got himself in trouble for writing to his government about its policies.

“There is nothing one person will not do to another,” Fife quoted from poet Caroline Forche, when he was sentenced.

He’d gone to work as usual in his church on the Sunday before sentencing, when there was still a chance he might receive a prison term; and delivered a sermon on the “need to stay behind the plough,” despite adversity of every kind, and setbacks, which was hardly the behavior of a remorseful person hoping to “mitigate” a Judge’s sentence, but his congregants loved it. They filled his small church and were loving in every way they could be toward him.

Fife came from generations of Presbyterian ministers. One of his relatives, he was fond of saying, had brought the gospel across the Alleghenies to the wilderness hinterlands of West Virginia and Ohio. He didn’t like it always to show, but he was a somewhat puritanical man, the kind of fellow who, to seem au courant, has to push himself to say “prison” would make his “love life” suffer.

He was born into less money than the Bulvan, Eliot Abrams, and he had married into less influence. Otherwise the tables might have been turned.

“The soul rebels that what I’ve being doing for 26 years constitutes a crime,” the Mexican priest, Father Quinones said; Fife spoke of the historic failures of the Christian Church” to save tortured and terrified life.””

A man like Fife is not so gentle he can’t imagine laying hands on a lout such as Abrams, I’m sure. “He keeps a lot inside him,” a friend said. “He’s tense.”

Outside I spoke to the doctor who told me the Fifes were lucky to have Hirsh as their pro bono attorney, as they surely could not afford him on their own steam.

“What does a Minister earn?” I asked. “Take a look around you,” the doctor said. “Do you see any affluence?”

I remember the dusty vicarage I’d visited earlier, with its ole furniture and air of plainness. The Fifes were just barely making it, like everybody else in South Tucson. Fife told me that he was worried about losing his pick-up truck for not making payments on account of the trial.

Don Reno drove a 928 Porsche, and went to court to question Fife’s motives: A man like that should have been trying to make a bigger buck instead of losing sleep over a bunch of grease balls.

Chapter II

SISTER DARLENE

Coming into the lobby of the court one day, I overheard Sister Darlene chattering away like a schoolgirl with two other nuns in mufti. They'd just come from playing some kind of racquetball on the noon recess and Darlene had done well, perhaps even beating her opponent. She was boasting about how terrific the game had been and how she had excelled; and it made me feel good about the Sister whom I had not taken to earlier. It seemed to me that racquetball, or whatever, was as good a way to celebrate the Lord and his creation as almost anything more religious Christians and Jews usually do.

More often than not, though Sister Darlene seemed dour, and serious, and fretful, a round face with round glasses, and clothes that looked like what they had showed at Marshall's ten years ago. She'd been through a lot and she did have powerful religious convictions about the Latin American Revolution, and she was open in her views, and she was clearly a feminist sister. Addressing a feminist convocation at the U of A, she'd declared Sanctuary, in its heroic aspects, was largely a women's movement.

For many such reasons, contact with Sister Darlene was abrasive, hardly endearing to some of the press. Her attorney wore doper's glasses and double breasted suits and managed to seem like a pompous courthouse lawyer and an academic at the same time. The sister rarely smiled except for her clack of nuns and former nuns. Once I asked her the name of the pastor she'd been with in Guatemala, who had been murdered by the Death Squads, and she was so busy chatting it up with another nun, that she never told me, and I had to learn the name of Father Tullio elsewhere. Her exploits, though, were verifiable with prosecution and Defense.

She'd worked in the refugee camps, in the slums of Mexico City, in Honduras, and Guatemala. She had seen the destruction of the Indian communities, had tasted her own fear, and was to the Sanctuary movement essential through her connections in the Church, with Sisterhood, and as part of a voluntary nationwide placement service for the refugees.

That most men did not seem to live up to her wounded and maimed Lord was only to be expected of one who had chosen heterosexual celibacy, and made other sacrifices, too, if indeed they were, to hallow and serve God.

It had always been a contention of the Defense that since the Government granted asylum on political grounds to the family of Marcos of the Philippines and Jose Napoleon Duarte of El Salvador, denying asylum to those without political connections was "selective and discriminatory," and prosecuting those who sought to remedy this was also "political," not simply a matter of law enforcement. Judge Carroll forbade this argument for the Defense, as he eventually forbade mention of the defendants' religious beliefs and motivations, and virtually all the other defenses proposed by attorneys for Sanctuary.

Since her religious acts were excluded from being seen in the context of religious beliefs, Sister Darlene was tried, preeminently, for seeming political, I think; since she was also one of the most outspoken about her political views, and may have even consorted knowingly with members of the Salvadorian insurgency. The INS had broken into her Phoenix apartment and stolen photographs and documents. "What would you have done, Judge?" she challenged the bench in a final statement in mitigation of her sentence, "if you had experienced what I experienced, if you knew what I knew?"

Sister Darlene knew the U.S. was lying when it stated Army-sponsored violence in El Salvador was abating. She had felt the terror inflicted by the paramilitaries against 'religious'

and campesinos and was aware that in El Salvador, as she had seen in Guatemala, and might someday find out again in Honduras, “because of more sophisticated weapons and guidance by the United States, civilian deaths caused by air strikes and ground sweeps escalate each passing month.”

When Judge Carroll alluded to this Franciscan as “well-meaning,” as he did with others, too, he was being naïve. Experientially she was 30 years his senior in worldly experience and knowledge. In Nicaragua I’d known nuns in 1978 and 1979 who had taken up arms; and I could imagine the Sister fighting, to protect herself or others. But all she had ever done, which could be proven, was give mercy, sustenance, housing, transportation, to those who had been tortured and orphaned and persecuted, to the most wretched of this bloodied Earth, who were after all the subjects of her calling.

Sister Darlene’s concerns were trivialized every time Reno as representative of the State made reference to them. She was concerned about a dirty little colonial war in Salvador, and the affect it was having on the lives of 6 million Salvadorians who were potential refugees. She believed the U.S. was not interested in peace, but in victory, or in a military stalemate which would be tantamount to that, and was prepared to see many thousands murdered to that end. She had been with the insurgents; so had Duarte. In El Salvador the struggle was truly internecine. Although the Government claims to wish to reform Salvadorian society, it was during Duarte’s initial military-sponsored rule that many thousands of Salvadorians perished. (See Christopher Dickey, “With The Contras,” 1986). Sister Darlene, like many who had seen the murderous Central American military in operation, was moved to believe that some elements of the Left were not quite so bloodthirsty, but there was no evidence brought forth to show that she actively supported the armed, and seemingly futile, struggle of the Left in either Salvador or Guatemala;

and she was on trial for conspiring to smuggle, harbor, transport, aid and abet illegal aliens inside the United States.

When Judge Carroll had postponed a hearing on a lengthy memo by A. Bates Butler and Paul Hoffman of the Southern California ACLU submitted during the Sanctuary trial as, they alleged, a “first amendment” prosecution, in which the Defendants were being prosecuted simply for criticizing US foreign policy, the Judge had pointed out that to consider the memorandum during the trial might cause a lengthy disruption in the trial, simply another way of saying he did not choose to delay convicting a recalcitrant and stiff-necked woman like Sister Darlene on mere Constitutional grounds. (In June, 1986, Judge Carroll denied the Defense motion for a hearing on “selective prosecution” out of hand, without considering evidence. “Incredible,” said attorney Mike Picarette, who was also threatened with contempt.)

“That’s because I don’t hear anymore in one ear,” a Central American told Reno when examined, “because of the torture I was subjected to in Central America.”

The witness was responding to a question about the name of a certain defendant who had been mentioned during a tape recorded conversation gathered by *auteur*, Jesus Cruz.

“In reality no,” he demurred, not recalling the name, and then went on to explain about his “ear” and the torture. Reno objected, and Carroll sustained. The word “torture” this time was stricken. The Jury was told they had not heard the word “torture.” It was considered “inflammatory” and “immaterial.” One way to insure the political trial you hold has the right brand of politics is to strike every reference to acts which cannot be explained by rationalizations of the likes of Eliot Abrams and Secretary Schultz. The jury was often in the position of children

at a dinner party hearing adult conversations take place and becoming interested, only to be told they would be punished if they were caught listening, or worse, if they understood.

Special Asst. US Attorney for Immigration, Don Reno, also made much of the commodious 'safe house' in Nogales, Sonora which was in reality the family home of the widow Aguilar. He made it seem just about as grand as KGB headquarters in Mexico City. Reno wanted us to believe it had been set up so as to accommodate large numbers of refugees. In actuality the original ranch house had two bedrooms and two more were added on as the Aguilars had more children. Now that Socorro's children were grown she lived alone. It was a decent nice house for Nogales, but hardly a mansion, or a dormitory, yet to Jesus Cruz, living as he had so close to poverty all his life, it may have actually seemed fairly deluxe. The idea of pitching some woo at the widow to further his 'investigation' might have become contaminated with his equally real ambition to live off the haunch of luxury which, of course, gave furtherance to his credibility as an undercover op.

The parvenu is one who gets a lady to wash his underwear for him after he goes to bed with her.

Similarly, Jesus Cruz said the rosary with Socorro Aguilar and then accepted refreshments and sometimes a meal. He was about to make her a celebrity by tape recording her and her friends in Christ.

When convicted on five counts, the strongest word Sister Darlene could utter was "shame." What a shame this was for American Justice and Democracy.

"If we don't defend rights and liberty, we're going to lose them," Sister Darlene added.

In Russia dissidents are sent to the Gulag after an administrative procedure.

American dissidents usually fare better. They are convicted through trial by jury. She insisted she had acted all along, according to her understanding, as a “good American,” serving as an escort to sanctuary inside the great North American Continent, and she was also in solidarity, with Christ. To be one with them, and the refugees, affirmed her witness as something other than white middle class liberal, to use some of the words she might have used. She was prepared to share their destinies, as ordained by our Government which did not welcome them. As alternative sentence, she asked the Judge to let her go back to Guatemala, or even Salvador. Her identity was in their passion and vice versa. When she spoke of looking toward the Latin Americans, for an example, it was as communicants in Byzantium might have looked to Rome once.

Among the charges Sister Darlene was convicted for was “concealing” on three counts.

The truth was her fault was an unashamed openness about her convictions and her acts. Having born witness to murder in Central America, she stood before the Court to accuse it of failing to uphold the laws of its Country and that Country’s international agreements. Whoever knows the truth, under such circumstances, can only expect punishment...

Chapter III
SOME REFUGEES

New Haven, Connecticut

February 11, 1986

Dear Magnus,

My whole life is now hiding. I get up in the morning and look around the village for people to evade; the Law is my enemy, and I cannot escape for longer than a few days from its surveillance. You see me now underground like a worm, perhaps you know. I certainly did not before I decided to risk my life on leaving Guatemala. Among North Americans I am known as a young hard-up medical student from Spain. I work in nursing homes as an orderly. You know me as your friend (and one time lover) Alberto Rios. The Left wing despises me for my curious predilections, and the right are much worse, surely. They would like to kill and torture me. I have left my home and family and friends and identity forever. Who am I now? A certain invert, homeless, without proper papers, studying a profession he will always be too squeamish to practice.

Friend, I used to read Proust in the Pedro Salinas translation and dream of sleepless nights and Madeleines on a hammock in the warm and humid air of the old capital. You came to me there once, and I was poor, and aimless, but I was myself. Even if I could study medicine again, I do not wish to go home. Why should I heal so others can continue to kill? Here I am a figment of a do-gooder bureaucrat's imaginings, and I cannot leave myself here anywhere for fear of my life. Please, if you can, continue with the allowance one more month as it is very cold on the Long Island Sound.

Love, and lonely.

Ruiz

“We want to be your neighbors,” a Central American refugee told a Sanctuary convocation in 1984.” “We want to be your friends in Central America.” This was a difficult message for most North Americans to understand: it suggested equality, the end to even the idea of ‘Banana Republics’ (except among haber-dashers); and the five centuries of exploitation and murder of Central Americans by the Great World of Anglos, Spaniards and Yankees.

At the same convocation, a Sanctuary specialist listed a range of four bases for political asylum: being a direct target of violence, being in the midst of a civil war, having a well-founded fear of persecution because of group or individual identity, or having well-founded fears that “political events will occur” that will put one in the jeopardy of any of the above.

Very few people in Central America, including some in the ruling elites, can say that they are not subject to one or another jeopardy. But Elliot Abrams asks: How will we discriminate? Are we obliged, for example, someday to accept 80 million Mexicans as refugees?

Artemio is a Salvadorian, in his early twenties, who works, without papers for a New York builder. He came here by way of Montreal where he was brought by a Canadian charity to make a public appearance. After telling the Canadians the story of the day a battalion of Salvadorian soldiers attacked his village as though it were harboring ‘rebeldes’, he excused himself to go to the toilet, crawled out through a window, and went to the Queen Elizabeth train station where he caught an express to New York.

For a while, he lived in a community for Central Americans in New Jersey. Now he has his own apartment in a *Latino* neighborhood of Jamaica, Queens.

“There’s a lot of violence in Jamaica,” he says, “only it’s not me they want. Never. I keep to myself. I had a girl friend for a while, now I don’t. In Salvador I lost my whole family, and they would have gotten me, too, if I hadn’t run away. It’s a quiet war in your newspapers, but it goes on I tell you, with both sides killing. Here, if you keep to yourself, nobody gets anybody. Even the Police...” Asked how he feels about living like an alien in a strange country, Artemio says, “I try to obey all the laws, and I have no friends to get me in trouble; in six months I will possibly have a Camarro.”

The Defense kept asking Jose Rene Argueta if he really felt El Salvador was a good place to bring up children, and he answered no place better. That’s why he paid over \$1,000 to have his own wife transported from there to ‘El Norte’ by the usual means.

The things a Government can get people to say, when the names of their relative and friends are known to that Government, which has the power to deport them, or worse.

One refugee told Sanctuary: “We want to go back home. We want El Salvador and Guatemala to be Sanctuaries.”

During a few days in El Salvador in 1979, en route from Nicaragua, there were blood stains on many sidewalks and the cathedral floors. Contrary to the testimony of Joan Didion, it wasn’t because the women didn’t know how to take care of themselves when they were menstruating. (See her El Salvador)

In San Salvador, I saw women in cages near a marketplace and I immediately assumed, like so many of my Countrymen, of course, that was because it was their custom and they didn’t

feel very comfortable being free to move about as they pleased; moreover, sucking some syphilitic sergeant's dick for a living must surely be a lot better than going Communist.

BISMARCK ARCIENEGAS (in Scottsdale Arizona)

When Turner Shelton was your Ambassador, under Nixon, to Nicaragua, I went to see him. "Excellency the sky is falling. Very slowly. We have not hands strong enough to keep it over our heads."

I did the same with Mr. Salaun, the Cuban, as I recall, and with that Red, Pezuollo, and your Mr. White: "The sky the sky is falling. There goes a piece of it right now."

You belong to a great nation and great nations believe they have everything under control. They listened in to the Boss' phone calls and conclude everything was all right. They think all the peasants want is land when they want your eggs boiled up for them...cojones, if you know what I mean. A man like me is just being selfish. He wants to keep his balls. I had a small business, a hundred employees in San Salvador and I could live with anybody so long as we had peace. The same for Nicaragua. You didn't listen. I wrote to your President: "All our leaders are gangsters. We need policemen here. Or we'll send you all our criminals." They say I supported Tacho and D'Aubasson? I didn't. I felt they should be replaced, if they could be. I never believed in the SSLN or FDR because I knew all their families and those who joined were the weakest of the litters. Mongols and nuns, all of them.

You think I don't know what they are capable of doing. When the weak are rejected that often happens. You pick seeds from the manure and then forget to plant any vegetables.

But they come into your garden with their machetes and cut your crops and give them to their children, as though you would not. So now it's your turn. You take all the whores and the

pimps and let them raise your children. I always felt cruel in Central America for having the little I had, and my enemies had much more and they called me that too.

So now I'm a refugee, like everybody else with a bank account at Bank of America, a respectable citizen. You want to show mercy you'll get what you give – a kick in the arse, when you bend over, from the cotton picking classes. Democracy? That's when two campas and I go to dinner together and I pay.

CHIMI (Phoenix)

They call me that because when I first came here from there I ate so much. I was a *puro* pig, a *turbo* of desires.

Now I watch my desires real close. When you're on a budget you have to. No more chimichangas. I buy a chicken and roast it and if it lasts me a whole week, with some rice and greens, I'm being careful.

They say we come here to get rich. I say it's enough to eat well and go about your business. Even the rats here are better fed than in my town in Salvador. They eat children's toes off, and they drink milk. A rat wouldn't touch some of the corpses I saw around the volcano Guarapo, and that was only 6 months ago.

I would like to meet an Anglo woman, but one of my own would do. I favor white people because I'm only here six months but even I can see the lighter you are the better off in *Los Estados Unidos*.

A footnote

We saw very little of the refugees, except when they were witnesses. They stayed as far away as they could. Most were poor and in hiding, or working at night jobs. They could hardly afford a day in court with the US Marshalls all about, and representatives of the INS such as Rayburn, Nixon, and Morgan on call. Sometimes they came in and sat a while. They did not identify themselves even when you asked, and did not like their pictures taken.

They were called by the Government “illegal aliens” and “unindicted co-conspirators” and, when they appeared on the Stand, it was because the prosecution was forcing them to as material witnesses. Often the prosecution could do little more than produce affidavits from doctors that they were in the final months of pregnancy, were medically ill, unable to travel. Even when forced to appear they said little to comfort Reno.

After a certain “Miriam Hernandez” from Guatemala testified, breaking down in tears and hyperventilating, she was surrounded by the Defense who congratulated her on how she’d handled herself and what she’d had to say, even though she was putatively appearing as a witness for the prosecution.

Both the Defense and the Prosecution tried to get to “Silver Palacios” before he testified. Mr. Reno, though, had the good sense to get some sort of statement from him, apparently, without advising him of his rights and with, apparently, no counsel present.

“The only choice we ever had was to sell our souls,” Phillip Willis Conger told the Court, “because (with the refugees) we tried everything every legal procedure and failed...”

As to “safe harbor” welcome at the Border, Father Tony Clark declared. “The Prosecution knew there was none...it never took place...”

“A different struggle begins for us when we cross the border,” a refugee said, “All of us still have to struggle...for this dignity...for this freedom...”

The following letter appeared in the Arizona Daily Star after the verdict.

To the editor,

I would like to comment on Betty Kennedy’s letter on having this country for refugees...

...Many countries have many, many refugees wanting to come to this country. A country trying to survive with a 2 trillion dollar deficit.

Economics and prevention of crime is what is or should be happening to this country.

Robert Bardo

“Dear Reverend,” a Long Island school child wrote Fife, “we’re very sorry that you got in trouble for helping people in need. It doesn’t seem fair...”

“If you can’t stand what’s going on down here in Nicaragua,” I asked a friend in Masaya not too long ago, “Why don’t you leave and come to the States?”

“Because I am a writer,” he said, “Even when I can’t get published here I am a writer, and I know that, and all my Nicaraguan friends they know that, too, whereas all my writer friends in Miami are either bank guards or night watchmen. So you see if I wanted to work nights with a pistol,” he went on, “I would join the Sandinista hijoputas.”

“But aren’t you afraid?” I asked.

“It may happen someday,” he said. “Now, you see, when my work is censored, or I am not published because I am too negative about certain things, like prisons, I have dignity, the

dignity of the silent. In Miami there are plenty of loud mouths and they are all stuffed with yucca and ropa vieja...

“The refugees in public sanctuary,” wrote Sister Darlene Nicgorski for ‘Basta’, a sanctuary newsletter of the Chicago Religious Task Force, just before the Tucson indictments, “are following the Saints of Latin America – they are the voice of the voiceless. Can we love them, join in their struggle? Love cannot stand back.”

Suspended sentences and probation for the convicted people from Sanctuary, including Sister Nicgorski, made the frustrations of such volunteers more explicit. They could not, in fact, join with the refugees, as the State reserved different punishments for them and those it considered “aliens.” Their fates were not so readily intertwined by will or good intentions.

But even helping those refugees, as the Protestant theologian Robert McAfee Brown had predicted, did “place the churches in jeopardy.” Not only did they involve risks “with no assurances of success,” but they caused some congregants to resign and others to drop away, brought the undercover agents of the INS in to the privacy of church sanctuaries, and caused ministers and priests to be given the investigative procedures which the State had hitherto used to indict gangsters and espionage agents.

WILMA (L.A.)

When you come here from Salvador the most you can hope for is food for your children and a roof over your head. The terror doesn't stop right away because you have the Niegra, though they are not killers, as we say.

I worked first for Mrs. Gotlieb in Belaire and then in Rolling Hills for the Johnstons. Believe me that was a long trip back and forth every day and, if the money was good, the house was large and nobody was taking care of it; the lady was in her grave. Then I worked for this pretty lady in Venice, She was nice but nosey. She always said she was one of us, gave me money for "La Causa," as she put it. Well I told her I wasn't like that but she gave anyway. Well I took it...

Two and a half years I cleaned houses until my veins broke and then I got a job sewing. I could do the work at home and look after my children, but I wasn't always paid, as I was promised.

What was I supposed to do – get a gun?'

The man said it's not a matter of hours (worked) but of quality: "You don't know the difference."

All the time my kids are growing up here and I'm praying to the virgin if Luis has problems with the police we'll be sent back to Salvador so be a good boy Luis. We can't afford trouble.

His father was in the mountains, and my daughter's father died in 1982 from unnatural causes. The way we live here is an improvement on the capital, but if I didn't have my Bible I would go crazy.

Someday sure I'd like to go back; for a visit maybe. There are just a lot of graves I'd want to visit. My best girlfriends and their husbands are all six feet underground.

"I am like Hitler," a Central American leader once declared: "I execute first, and then give trial afterwards."

Chapter IV

“A NEW WRINKLE”

“A new wrinkle on the case,” is what one veteran immigration attorney labeled the Government’s post conviction insinuations that Sanctuary was engaged in some nefarious way in aiding or transporting terrorists. “Everybody in Washington is looking for terrorists” he added, “But this is definitely a new wrinkle to their approach.”

His comments were made a few days after the Government had arrested Alejandro Rodriquez in Rochester, New York, and only weeks after Reno had declared he could prove connections between Sister Darlene and the insurgent movement in El Salvador. Hitherto the Sanctuary issue seemed to be how faithful the US really was to an “even-handed refugee policy.” But now, with the public dialogue largely supporting Sanctuary’s contention of wide-ranging policy abuses by the INS, the Government changed the scenario to terrorism as a threat to sanctioned security.

In the name of the National Defense, or National Security, the present administration could justify anything from child molestation to baptism by total immersion in excrement. One of our spooks gets blown up in the Lebanon, and they use it to stop the newspapers from printing about the Mafia connections of a former Secretary of Labor.

National Security considerations seem to be the hobgoblin of all the small minds in State and Defense. The Director of the Central Intelligence Agency, for example, could even try to censure the press from reporting on his previous tenure-ship as chief executive officer of the nearly bankrupt Long Island Lighting Company on the grounds of “National Security.”

So it was that the question of National Security was also brought to play dramatically in Rochester, New York in the case of “Alejandro Rodriguez,” just as that large prosperous upper New York manufacturing city was about to vote itself a “Sanctuary” for Central Americans.

Alejandro ‘Rodriguez,’ aka Alejandro Gomex, a 44 year old former Salvadorian labor organizer of seemingly moderate politics, who called himself a Christian and said, when asked, he was not a Communist, had been given Sanctuary with his wife, four children, and mother-in-law since May 1984 in a Rochester church. On Memorial Day weekend, he was arrested and detained by the INS on a Rochester Street corner as a matter of “National Security.”

He had, he claimed, been jailed and tortured in Salvador (“hung by the arms” etc.) and his life was in jeopardy if he returned. He fled and had his family later flee, too, leaving behind all their possessions, including two homes and two cars, and entered this Country, through Nogales, as an illegal alien with the help of Sanctuary.

Prior to his coming here, Rodriguez was declared a refugee by the UN High Commission on Refugees in Mexico City, where he had stayed some months, and by Amnesty International. On coming to Rochester, he was arrested by the INS as an alien, a deportation hearing was scheduled, and he was freed to live again in the Sanctuary church on three thousand dollars bail.

Rodriguez was subpoenaed by Asst. Special US Attorney Don Reno to appear as a Government witness at the INS trial of Sanctuary, and his testimony of his ordeal was one of the most palpable and pungent pieces of Central American reality to intrude on Judge Carroll’s antiseptic “alien smuggling” courtroom, despite the fact that he was only allowed to speak before the jury in the most general terms of being tortured, and of his fear for his life, were he to be returned to El Salvador.

(Rodriquez also told of being importuned by government informant Jesus Cruz to be transported across the border from Nogales, and of his former prosperity and achievements. He owned two cars and his own home, his wife was a bookkeeper they had a bus business as a sideline).

Rodriquez was clearly not an economic refugee, as the Government had earlier charged. Now, as he was cross examined for the Defense by Attorney Ellen Yaroshevsky and others, he was constantly interrupted by Judge Carroll. Ms. Yaroshevsky was not examining the witness as Carroll, in advance, had instructed her to, and Carroll had also observed from Rodriquez's need to elaborate on his ordeal and with the prosecutor's mishandling "leading questions, that people from Latin America perhaps have a difficulty in just answering the question "yes" or "no," by nature of their personal attitudes..."

The Defense felt the rules for the examination of Rodriquez "keep flip flopping back and forth."

For his own part, Judge Carroll could seem notably reproachful about "laughing when I make rulings, snickerings, shakes of the head." He accused the Defense of seeking to influence the jury by such behavior, and he took his cue, as usual, from Prosecutor Reno who, a little earlier, had characterized one of the Reverend Fife's spontaneous outbursts: "I don't believe it is proper demeanor in court," Reno advised the Judge.

There was also a heated exchange between Brosnahan and Carroll in the middle of Rodriquez's testimony about whether Rodriquez, as a Government witness, was the bearer of "bias" in that he was then expecting the State Department and the Department of Justice to rule on his asylum petition, and thought his testimony in court might affect that.

Brosnahan... “It is one kind of bias if the witness fears that he might be deported to El Salvador and he might be separated from his family. It is of a higher order and different kind if this witness fears he might be tortured. It is finally, I suppose –

The Court: Tortured by the INS?

Brosnahan: Tortured by the people in El Salvador. Your Honor has before you a witness, who has, in fact, been tortured, and no order can rule that out. He has been tortured.

The Court: You are stating that as a fact and we are not going to find that as a fact.

Mr. Brosnahan: But it is a fact.

The Court: If you were present and I was taking testimony, perhaps...

The jury was not present when this was being argued. Even so Carroll was prepared to insist that Rodriguez’s torture was alleged.

Carroll: “You may stand on a street corner and say it is a fact.”

Throughout the testimony of Rodriguez-Gomez at the Sanctuary trial in mid January 1986, he was alleged by Reno as being less than truthful about how he decided to come to the U.S., and about his intentions vis a vis the INS. Reno kept insisting he’d stalled 9 months until arrested before applying for alien status, and ‘Rodriquez’ and the cross-examining defense tried to show he had been advised to do so in Mexico City, Nogales, Tucson, Phoenix, Chicago, and Rochester because he had little chance of being given legal status because of the INS discretionary quotas toward Central Americans, and would have to get legal assistance and gather documents to make as strong a case as possible.

Reno was intent on showing a pattern of evasive behavior by ‘Rodriquez,’ aided and abetted by Sanctuary; and he tried to corroborate his point by examining Letitia Rodriguez, the witness’ wife, who claimed she knew nothing of all the dealings that went on since she was busy

taking care of her aged mother and four depressed and frightened children throughout the time of their flight from San Salvador, their stay in Mexico, and their trip up from Tucson to Rochester.

At the end of all this testimony it seemed evident that the Government had established a Sanctuary pattern of treating INS practices with a certain cavalier disdain, but Rodriguez had been able in an abstract and general way before the Jury, to interject that he had been tortured and feared for his life.

It's not yet clear – and probably never will be – who decided to insinuate that Sanctuary was a part of an international terrorist network. Or whether that happened before or after the series of “anti terrorist” actions by the Reagan Administration against Libya which culminated in the April bombing raids on Tripoli and Bengazi. Throughout April and early May of 1986 the INS, the Justice Department, and the Department of State, were trial ballooning new anti-terrorist doctrines and programs, with special reference to our borders. When ‘Rodriquez’ was arrested by twelve INS people in downtown Rochester at 5 PM Friday evening May 23, 1986 he was immediately spirited to the Erie County Federal Holding Center in Buffalo and held on an additional forty seven thousand dollars bail, high for an illegal alien, as a threat to the “National Security.” The INS claimed to have information, developed for the Sanctuary trial, that Rodriguez-Gomez had been a Communist party member in El Salvador in 1967, had visited Cuba in 1962 for a guerilla training course, and was an enemy of the U.S.

Both Gomez and his attorney refused to comment on these new allegations, from the Defense Department's Intelligence Agency, except to reaffirm his peaceful ‘Christian’ non-Communist intentions, and present affiliations.

“I don’t have any fear of what can be speculated,” Gomez said. “I have always spoken openly: I have never done anything in hiding.” But some Sanctuary supporters in Rochester said they were reconsidering their support of Gomez and his putative CP ties.

Before the weekend was over the Sanctuary committee in Rochester had raised forty seven thousand dollars in cash for Rodriquez to make bail. He was still under threat of deportation, and had not been recommended by the State Department for legal status, but he was returned to his family in their church Sanctuary, pending a hearing which he and his lawyers requested be closed to the public.

There were numerous less well publicized roundups by the INS at the time, as there were also, for political reasons, during the Iranian hostage crisis against Iranian students and other nationals in the US. But the Rodriquez-Gomez action was particularly noteworthy, as it seemed timed to the weekend before Rochester’s City Counsel was to vote on becoming a Sanctuary city, and in such a way that the suspect would have been incommunicado and out of reach all weekend. “The arrest was of a national security magnitude,” alleged the director of the INS in buffalo, Benedict Feno: “We had one objective and that was to apprehend Mr. Gomez and we did that at his first opportunity.” It’s also true that some of the charges date back to a time when the suspect was only 20 years old, and were made by a spy agency of the American military establishment with very close ties to the Military establishment in El Salvador, the same people who had willy-nilly murdered thousands of Salvadorians without trial for various putative subversive charges.

The Sanctuary movement, locally and nationally, rallied to the defense of Rodriquez-Gomez and his right to be a political refugee, whether or not he had once been a Communist. Even the Conservative Gannett owned Rochester papers editorialized that Rodriquez Gomez was

no threat to the US, had behaved peaceably in Rochester in Sanctuary, and, if he was a leftist, the US should regard it as a compliment to our democracy that he should be getting refuge here.

“When the INS brands Gomez a Communist,” The Rochester Times even editorialized at midweek, “ it makes him a target for persecution or assassination in El Salvador where even moderates are victims of death squads. Ironically INS thus builds a case not for deporting Gomez, but for letting him stay.” Within a few days, though, the detainee and his attorney were making plans, if they could, to apply to Canada for ‘Rodriquez’ and his family as refugee immigrants to avoid deportation back to El Salvador.

“You’ve been in the business long enough to know how to conduct yourselves,” Judge Carroll told Sanctuary’s *pro bono* attorneys in the midst of the ‘Rodriquez’ examination when he threatened one of them with contempt for waving his arms as he spoke to the court. It’s the remark of a utilities lawyer to a zealot representing those who blatantly are acting our prophecy.

Judge Carroll also sometimes used a form of address to refer to himself which was the same as that of Lear and other royal personages in the plays of Shakespeare. “We are available then,” he advised Defense Attorney A. Bates Butler who asked to see him before court one morning at 8:45. (It was not always awfully clear if he meant the Court, or the Court in the person of Himself). In explaining his view of how Latin’s respond to questions from the prosecutor, he seemed to step his foot even deeper in his own manure. “...It was simply to suggest that when people perhaps from Latin America are asked a question, they simply want to give the second step of the answer not the first. Beyond that...would you please talk to your client and simply tell him to answer the questions that are asked of him.”

James Corbett was not the sort of man to rub it in when he found himself among nitwits. In court, he always seemed calm, and cooled out, and expressed the least amount of indignation publicly about being on trial before Judge Carroll, who probably was giving “mulishness” a pejorative connotation, in his estimation. Corbett sat throughout the trial as though ruminating on a long essay about indifference. He had surely not expected any better from the coercive State. In his ‘Goat walking’ essay, Corbett speculated on religion as the prop of the coercive State, whereas the acts of his friends, now faced with the contentious stupidity of a Judge Carroll, or other men of his ilk, were more like prophecy; and “the difference between religion and prophecy,” he pointed out, “is like that of a pillar and a battering ram.”

Refugees like ‘Rodriquez’-Gomez, and his family, were to be liberated through a prophetic vision which led some humans to act on behalf of others, if only to forestall the prophecy of the same Revolutionary apocalypse which the INS was labeling a threat to national security, and trying to tie to international terrorism. Men like Rodriquez-Gomez, as time passed, were also caught up in the apocalyptic political crusades of the Second Reagan Administration.

Mr. Reno: Mr. Rodriquez, have you been represented by an attorney prior to coming to court today?

A. I have an attorney who is looking after my case of political asylum.

Mr. Reno: Your Honor, I would ask that the response be stricken as non-responsive.

Corridor joke: This man and woman are making love. She brings herself to orgasm by rubbing her body across the man’s.

Afterwards, she says: “That was lovely ducks.”

“I move,” he replied, “to strike that response as unresponsive.”

Chapter V

THE DEFENSE RESTS

When the Defense took the unusual step of not calling any witnesses and resting its case, Veteran lawyers assured me this could mean any number of different things: The Prosecution had made a weak case; the defense was weakening; the Prosecution would be strong on cross-examination; it's not up to the Defense to prove its innocence, but for the Prosecution to prove guilt "beyond a reasonable doubt."

Ellen Yaroshevsky of the Defense declared, "I think what we're counting on is that the jury will rely on its common sense, on its humanity, and the law. And they will find that the prosecution has not proven anything beyond a reasonable doubt."

When a Defense rests its case without presenting witnesses and a case of its own, it's a little bit like standing pat in a game of five card draw poker. Bluffing when one has two high pairs is probably as good as one can do, and it risks avoiding disclosure that one has only two pairs which drawing one card for a full house would almost surely reveal. Fife told the press, "innocence doesn't have to be proved."

It's also true that the Defense did not wish to make itself vulnerable to Reno's cross examinations. "For five months you've seen Mr. Reno jumping up and down like a little puppet, trying to keep out evidence of torture and death squads, pain and loss," the Reverent John Fife said when the Defense rested. He and his colleagues and their lawyers decided to limit Reno's license by resting their case. It may have been a mistake in that it also gave them that much less opportunity to implant the idea of nullification in the Jury.

By the time the Defense rested 39 charges had been dropped from the original indictment. Of the 32 remaining, twenty six were for felonies.

All still faced the catch-all “conspiracy” charge. Even as the Defense lawyers were standing one at a time to rest in front of a judge they regarded as “biased” and “untrustworthy,” they seemed to wish the gallery to believe their innocence had been untainted. Fife later said, “We were all in agreement after much discussion that this was the way to go.”

Peggy Hutchinson’s attorney, Mike Picaretta, told me over the phone that day that the best case the Defense had was the actual situation in Central America and, since they knew Judge Carroll would not allow such discussion in court before the jury, resting like this was the best they could do. “You can say,” he told me, “we knew in our hearts all along it would go this way.”

Picaretta was expecting acquittal; for nearly an entire week he and others had tried to get Judge Carroll to rescind his order about allowing conditions in Central America to be part of the trial. Carroll stood pat, knowing he held all the cards. At a mid-week evening meeting of all the defendants and their lawyers, it was unanimously agreed that they would rest their case the next morning. Sanctuary at this point believed that they had managed to insert large amounts of Central American reality into the trial proceedings. The Jury now knew how a few of the “aliens” had been in danger in their home countries, had left in harrowing ways, lost relatives and friends to Revolution and civil war. The felonious intent of their right actions was still to be debated in various oblique ways. Could the judge maintain, with his small civility, that answering a cry for help was criminal intent?

I was glad the Defense had rested. Once in court I’d pictured all of us in suits and ties, fifty years from now in this same court, which was like the illustrations I’d seen as a child for Davey Jones’ locker. There never had been anything to prove or disapprove. We were all just living as persons who had drowned under a sea of inferences and insinuations, in the opaque and

murky underwater world of Don Reno's brackish intentions. The defendants were growing crepuscular with doubts about their own innocence. More than once it's been observed that lawyers like to look like lawyers, and judges have judicial jaws, and the aliens were the effigies of their alienation and statelessness.

The Defense resting meant the trial would end before summer. Bulky, handsome Ellen Yaroshevsky who dressed "smart," like a New Yorker, in suits and blouses, was an associate of William Kunstler's Center for Constitutional Rights in New York City, and very homesick for the East at times. It was her job to declare, as often as possible, in as many different ways as possible, that the defendants could not get a fair trial in this court as it was presently comprised. Carroll seemed to take it as a matter of obligation to prove her right as often as possible. Anger and pique sometimes serrated his features when he turned on a member of the Defense team to upbraid him for protesting a ruling too vigorously, or intelligently. His face would turn glacial with glare and then unfreeze, as stagnant pond water.

"Let me say this," he would mew at the courtroom.

By always insisting he was only trying to fix "the parameters of arguments," Carroll was nevertheless making it next to impossible for the Defense to talk to the jury about anything except the weather in Sonora.

Judge Carroll had ruled, for example, there would be no "Sanctuary" defense based on the need to offer mercy to refugees; and, with the defense resting, Carroll and the two sides would surely meet in his Phoenix courtroom to go over his instructions to the jury which would all be ironed out before final summaries began. On at least two occasions Carroll would reject instructions agreed upon in advance by the prosecution and the defense for instructions of his own contrivance. It was as though, having already influenced the case in ways inappropriate to a

member of the judiciary, he was now proposing to torture it into resembling his own craggy face in the mirror .

He now reproached Reno for his interview with the Arizona Daily Star. “I don’t expect any of the lawyers to make any remarks to the press,” Carroll said, insisting they were violating rule 88 of his pretrial instructions. (You may recall that Reno had tried to portray himself to the Star as a person of deep religious feelings.)

(The next morning, in court, Reno was greeted by the Reverend Fife. “I read in the paper where your wife thinks you’re the most religious person she’s ever known. She must have had a deprived childhood.”)

PART IV

Chapter I

ODDITIES AND QUIDDITIES

While the jury was deliberating two Sanctuary staffers came upon the bailiff for Judge Carroll having a drink with INS investigator Jim Rayburn at the bar of the Ramada Inn. Rayburn and the bailiff alleged this was a social visit, after a photographer was summoned to take a picture of the pair. Later, the bailiff was relieved of her duties, though the jury's deliberations went on unabated.

Judge Carroll's clerk, Dana Campbell also announced he would soon relieve himself of his duties right about then when it was disclosed he was taking a job with the Justice Department that might have led to a conflict of interest.

A bland-looking, callow-faced man in his early thirties, Dana passed on to me the Judge's message that the fact I was a professional author of some 20 books did not qualify me to be in his eyes "a member of the media" and entitled to sit in the seats reserved for the press.

In the little Mexican café next door to court some jurors are taking lunch. I'm at the next table.

"Hear the one about the two senior citizens who got married?"

"I don't think so."

"Well they got married," she tells her friend," and were very happy together. And every night they crawled into their twin beds and held hands across the space. So one night he reaches out for her hand, and she says..."

"Not tonight darling, I'm too tired..."

“O you heard it?”

“Almost as many times,” the other implies, “as the evidence in this stupid trial. Eleven lawyers...if that isn’t like an old joke, I don’t know what is.”

A number of romances and love affairs among Sanctuary staff took place while the trial was in progress. One reporter had to excuse himself from covering the trial when he fell in love with a counsel for the Defense. Two other Sanctuary staffers were continually running off at lunch time recesses for a rendezvous. At least one marriage of a lawyer broke up.

There is no record of Judge Carroll clandestinely meeting with anyone for immoral purposes.

When the Defense rested, attorney Mike Picaretta told me the jury would be getting a signal from this action to acquit.

This signal would come, he explained, when we explain point by point to the jury the innocence of our clients.

He later won a bet from Robert Hirsh for dinner in any restaurant in Tucson when the defendants were not given jail sentences.

For all his presumptuousness, Reno often seemed to lack confidence about whether he was getting across to the jury. In his summing up he peered across at them furtively, after going through the charges and announced, “I hope you understand the inferences of my argument.” Reno also seemed surprised when the courtroom laughed at his mispronunciations of Spanish. But this was almost certainly deliberate and a more effective technique than the highly correct pronunciations of the Defense. Attorney William Risner, for example, after larding his plea for

Father Quinones with numerous well-articulated Spanish words and phrases, admitted before the jury that he also did not know the language fluently. When I asked why, he said he had to tell them that because it was true.

Special Asst. US Attorney Reno told the jury, in summing up, “freedom of speech and freedom of religion do not immunize you from the Law.” This was probably so except if you were being tried, one would suppose, for what you had said or believed.

During its more than a week of deliberations, the jury asked very few questions of Judge Carroll and made even fewer requests. They wanted to know if they could recess 15 minutes early on a certain day, and when they could go to the bathroom, if they could highlight his instruction sheets, and whether they could take lunch early. About the only question of substance was concerning the alleged Peggy Hutchinson tape in which a Central American co-conspirator was accosted by Jesus Cruz on tape with the question, was it Peggy Hutchinson who brought you across...?

Her answer, inaudible, was always in doubt. The jury wanted to hear the tape for themselves. Presumably they thought the answer was in the affirmative, for they convicted Peggy Hutchinson of “conspiracy.”

One of the US Marshalls during the trial had recently transferred from the INS where he was in charge of the Border Patrol around Nogales.

Shortly after the Defense rested, a couple of Sanctuary people were apprehended bringing in refugees a few miles North of Naco and were released without charges, but the refugees were detained.

Sometimes Judge Carroll rules in language that lacked even a scintilla of coherence. Here he comments on the important question of whether Jesus Cruz was working on the “Sojourner” investigation for the Feds before or since March 1984, which Cruz had denied, though the Defense found evidence of prior motel registrations to establish.

“Seems to me that arguably, at least insofar as prejudice is concerned, what might be argued from the defendants as prejudicial would be having brought up a subject which seemingly is a – other than possibly impeaching Mr. Cruz about something, is a – is a subject, as least that he wasn’t doing – that was perhaps questions asked of him that he was doing something wrong.

“That seems to me to be more of a problem in a sense than these other things.”

“I don’t understand the court’s comment in that regard.” Defense Attorney A. Bates Butler murmured afterward.

“How would you describe Don Reno’s head?” I heard one para-journalist ask another.

“Sunny side cup,” he says, “or egg in the hole with hair...”

“Conspiracy?” the liberal New York attorney in the Hamptons said. “The government hasn’t won one of those in thirty years...”

He laughed, despite himself. He’d worked awhile in Government.

“Then why bother?” I asked.

“O I don’t know,” he told me. “Sometimes things get out of hand. The paperwork starts flowing. A process gets under way you just can’t stop, and before you know it’s out of control and there are indictments...”

I said, “That’s a hell of a thought...”

“People in Government have to keep busy doing something,” he said. “They have to justify themselves.”

A more political explanation was given by Defense Counsel Ellen Yaroshevsky when I asked her to explain in writing the reasons as she understood them, for the prosecution.

“...The Sanctuary movement exposes the discriminatory treatment given El Salvadorians and Guatemalans by the INS. Treatment of Salvadorians and Guatemalans at the border, in U.S. jails and prisons, and by immigration judges is an embarrassment to a government that calls itself democratic. The 1980 Refugee Act was passed so that our immigration system would be neutral, i.e., a person should be considered a refugee regardless of the country he is from, so long as he had a well founded fear of persecution. The Reagan administration has virtually ignored the law and denied asylum to Salvadorians and Guatemalans in wholesale numbers. Beyond that, the Sanctuary movement gives a platform to Salvadorians and Guatemalans to explain the conditions in their country. Many of these Central Americans beg North Americans to stop the arms flow from the U.S. to Salvador and Guatemala so that the persecution will stop as well.

With this background, the purpose of the Sanctuary prosecution was to intimidate and harass the movement. The government wanted to stop the publicity generated by sanctuary. The government wanted to stop the growth of sanctuary churches, sanctuary cities and sanctuary states. The government believed that by prosecuting the “leaders” of sanctuary that they would make a great inroad towards stopping the movement.

Given these goals, the sanctuary movement and sanctuary supporters can claim a great victory. The trial generated millions of dollars of publicity, sixteen cities have declared themselves sanctuary cities, as had the state of New Mexico, and the sanctuary movement is growing in churches and synagogues throughout the country. The convictions have fortified peoples' resolve and caused them to understand that this will be a long term effort to win the rights of Salvadorians and Guatemalans in the United States. Sanctuary churches and synagogues now understand that the harassment will not stop but that they must organize to fight against government's attempts to destroy the movement. The real loser in the trial was not the sanctuary defendants but the legal system because tens of thousands of church people throughout the country who once believed that the legal system was fair have now learned that the truth could not be told in federal courthouse."

When we think of Sanctuary as shelter in the face of persecution, we recognize that what church people were doing was fairly original to American religious life in the "vertical church." Hitherto ministers and priests have prayed for the souls of those who were to be executed by the State, and served the armies of the State as chaplains. Now they were declaring the State to be an enemy of the refugees, and offering "Sanctuary."

The modern State maintains an air of civility toward religion so long as the religions are serving the aims of the State by feeding its poor, or aligning its people behind a given policy. Sanctuary, by its acts, had declared the State was acting without due regard for the sanctity of human lives and once challenged, the state violated the privacy of the churches with as much license as it had used previously to endow them with tax-exempt statuses.

It was during the jury's deliberations that one influential juror quoted from the New Testament's injunction in Mark to render unto Caesar what is Caesar's etc. Interestingly, the words were quoted in defense of the Government's prosecution of Sanctuary. This juror seemed to be telling her peers the State had the right to police its house, even if that interfered with the seeming 4th amendment guarantees of religious privacy and freedom.

In America everybody believes in separation of church and state when its convenient to them, but not when their own shoes are pinched. Catholics preach separation to protect their interests and bailiwicks, along with fundamentalist Protestants and Jews, and then turn around and ask for legislation against abortion, or divorce by consent, or the teaching of Evolution.

Even in secular, Socialist, Nicaragua, the State will not license abortion on demand, to pacify Church interests, and because it believes Nicaragua needs more children. The secular State there, like here, is a political instrument to make certain views prevail, and police against others.

The liberal-minded religious, on the other hand, often turn to the State to remedy religious inequities, as when Church and Jewish spokesmen appeal on moral grounds to politicians to remedy mean foreign policies, or, when accused of illegal behavior, plead their religious consciences. On a more elementary level, liberal Jews and Christians often argue for secular non-sectarian schools, which policy the State is to oversee, as a matter of secular religion.

The best comment on the behavior of the lawyers during this long and often tedious trial came from a Phoenix high school student who observed one day: "The man in the afternoon wasn't as interesting as the lady in the morning was. He started out happy and funny but then he just gradually became more and more boring...."

The hype of courtroom drama in movies, the theatre, or books, usually commences where the actual activity leaves off. Most trials, in my experience, are the equal, as entertainment to watching the Southern Pacific freights marshal in South Tucson. But, with Sanctuary, there were moments. Judge Carroll could often be, in my opinion, one of the great sit down comedians. Consider the pathos of this jurist expatiating on the Justice of the System less than a week after that System had appropriated 100 million dollars by a vote of the House of Representatives to equip and unleash a mercenary army against a neighboring country.

In the Sanctuary investigation, as in certain governmental investigations of the anti-Vietnam movement in the Sixties and Seventies, and the Government's harassment of Dr. Martin Luther King, the Government never alleged that the religious were acting other than in a manner consistent with their beliefs and, therefore, licitly and legally, according to the Fourth Amendment. They believed that the acts and thinking of such persons were inimical to laws which were now being evoked as governmental policies, and were, therefore, worthy of investigation, and other intrusions. In other words, the Government did not recognize the rights of churches and synagogues to give Sanctuary to those who, through their witness, were perforce critics of governmental policies.

The first step was to invent a conspiracy where, in fact, Sanctuary had always operated openly and with candor. Following this the Government brought in the canard of "national security" to justify the use of undercover infiltrators in places of religion. "The evidence will show," attorneys always were obliged to say, before making 2 and 2 add up to 5, that the Government of the United States in 1986 was quite prepared to prosecute Sanctuary's religious for 'conspiracy' because it did not agree with their political views. After sentencing the defendants, Judge Carroll urged the defendants to continue to work within the system.

Some of the journalists referred to the least well-liked of the defendants as Phillip “Wilted-Condom.” He gained sympathy, though, when convicted.

The Prosecution and the Defense were staying at a brand new plastic furnished apartment complex downtown called “La Entrada” and used to meet doing their laundry.

“Do you want to know what I think?” a Marshall said to me one day as I was leaving Court. “They’ll be having their trial when my grandchildren work for the Government.”

We were three months into it by then and just about skimming the surface of the issues, with witnesses stacked up in the witness room as at a painless dentist’s suite.

Some of the Defense had begun to commute home to the East on weekends once more for fear of forgetting who their families were; and by my count Miss Grabowski, Reno’s assistant, had had her hair frosted and done up at least 3 times. It was about that point, I, too, had to leave Tucson and would not be back for more than a month. I’d have to follow the proceedings in whatever Press was available and with the help of ‘stringer’ friends, but I’d be back from time to time.

“Well you’re going,” a bailiff said. “Don’t speak too harshly of the Judge. He’s an Arizonan.”

“Sometimes you make a lot of sense,” I told him.

Judge Carroll was proceeding down the corridor to lunch with his face, like tinfoil, stamped into a scowl.

“Your honor,” I nodded, giving him his due.

“I’ve no time,” he said. “Haven’t you been informed about my order no interviews?”

As he passed on, I said to the bailiff, "I wasn't planning to interview him just to give him the big hello."

"Very suspicious," the Marshall assured me.

"It's his way is all."

THE LAWYERS AGAIN

Like Roland Barth's wrestlers, the lawyers at the Sanctuary trial – perhaps at all such political trials – were almost god-like. They alone seemed to have “the key which opens Nature, the pure gesture which separates Good from Evil, and unveils the form of a Justice which is at last intelligible.”

The drama was essentially fake, enacted like a professional wrestling match for TV. Eloquent words were spoken, no rabbit punches delivered. Afterwards the lawyers joked with their opposite numbers, like wrestlers smoking together after a fixed match. Defense and Prosecution didn't like each other; they were all perfectly sincere about that, but, ruled by the forms of the encounter, they cooperated in the staging of the trial, just as the jury later found itself ruled by its volunteer Forewoman and the Judge's instructions.

The Government's case was posited on such a nit-picking respect for the letter and the spirit of the law it was hard to understand why it hired liars and criminals as informants to help enforce that respect. As though adultery were the means employed by a couple to maintain a faithful marriage, the prosecution wanted us to believe that lies, and evidence-tampering, were preferable to smuggling in “illegal aliens.”

The mendacities of the Defense on the other hand, could be likened to those of a paragon of a husband and father who has been caught red handed shtupping his au pair. He says he did it so the woman would stay on the job, though, in reality, he did it because she was sexy to him and it felt a little better to him than making sermons on Sunday, or all the liberal discussions over coffee and donuts about Central America.

Sometimes all the Sanctuary defendants seemed to mean by religious motivation was doing, instead of talking; acting, not simply reflecting: “What would you have done, Judge?”

asked sister Darlene, in a final statement to the Court. She also referred to the daily experiences of most Central Americans as the “challenge of life.” (“It was a real growth experience for me” to work for, with “Sister Darlene,” said her academic attorney, Professor Michael Altman, to the Court, afterwards: She brought out in him, he averred, “religiosity.”)

Religious feeling, as we tend to understand the words, are often a hallowing, good feeling about the Creation which leads to sanctifying and charitable acts. So it must have felt good to the people in Sanctuary to feel something, for a change, about ideas which criticized established authority (to feel instead of the usual blahs and hosannas); and to act in a principled and careful manner against the uncaring bureaucratized State. They very quickly sought advice of counsel and they acted fairly discreetly until they became aware the Government was investigating them.

Even a man with impaired hands and feet could turn out to be a man of action. Even pain which makes one vividly aware of being human, could be put to the service of the Sanctuary cause, it seemed. Jim Corbett was sometimes one of the guides during the long desert treks near the border, and it was said even younger people had a hard time keeping up with him.

A Salvadoran woman who called herself “Elbe Teresa” was a reluctant witness for the prosecution after being apprehended. When she pleaded her Fifth Amendment rights for refusing to testify about the circumstances by which she came to the United States, she was placed under “house arrest” by Judge Carroll, meaning she was only allowed to leave her residence for business or religious observance. She came to court with members of her family, including a nephew, who sat in court drawing pictures of soldiers and airplanes bombing and strafing and machine-gunning campesinos. His drawings were done in a tidy fastidious hand, in green and red inks, and had the evocative force of cartoons, with captions such as “The Soldiers

Are Killing the People.” In another cartoon panel Judge Carroll was shown as a gorilla and Jesus Cruz was being led to the witness stand inside a carrel.

The Defense tried to have these drawings introduced as evidence of the “dehumanizations” of the war in Salvador. They reminded me very much of the paintings in oils and gauches I had seen in Nicaragua in the late 70s and early 80s decorating the walls of high SLN officials. They also reminded me of my own drawings, when I was 10, of Spitfires attacking Messerschmidts etc. True, I had also been dehumanized by the deaths of all my relatives in Russia by the German Einsatzgruppen.

Liberals call this dissociated graffiti-making of warring stick figures “dehumanization,” but it seems to me those who draw are better off by far than those who don’t. By age 11, I more or less took it for granted that the ‘Final Solution’ was as much a part of life as wet dreams.

In all the time I was in Tucson, prior to the verdict, I never saw or heard of a demonstration in support of the Government’s case, and read only one supportive letter to the editor in addition to a newspaper profile done on a certain Mrs. Haag, from Iowa, who came to Court every day to lend support for Reno. She believed Sanctuary was crypto-Communist. She seemed a very lonely person in the solidly partisan Sanctuary gallery.

After the verdict was in, letters in support of the Government in the local press far outnumbered those in support of Sanctuary.

Maybe this simply proves that most citizens are so apathetic they will only express their opinions about an issue if an official body, such as a jury, has ratified it in advance.

It could also mean that many did not know about Sanctuary until they were judged guilty through the Government's case, and then they felt it was necessary to be irate and express the opinions they never had.

The decision of a jury seems to sign to the average citizen that his hitherto reactionary and vapid point of view is the consensus of his peers, whereas the actual jury consisted of 12 separate men and women chosen to be subjected to the intense manipulations of prosecutor, defense, and a Judge.

It makes no more sense to say that juries arrive at opinions which we can share with them than it does to argue that matters of personality and ideology were not entertained by this jury, along with the evidence.

The Sanctuary trial jury matched evidence to element and charge as systematically as they could, but they liked and disliked the people they saw every day in Court; and they had been instructed to know nothing more about the people on trial than what they were going to learn through Mr. Reno and the attorneys for the Defense, which was a little like sitting through an Italian film with subtitles in French.

The English spoken to the jury was full of ellipses and exceptions; they were continually being tantalized with the beginnings of stories they were instructed to forget all about.

Ask a tough question of witness Jesus Cruz and he was inclined to tough it out with you, as in the Argueta caper. Cruz insisted under cross examination he did not participate in that investigation but was only doing his mentor "Mr. Jim" Rayburn a favor by driving the Salvadorian Argueta to LA. Then why had he been paid three hundred dollars? He averred he

gave half the money to Argueta. Then why wasn't it listed under the Government's schedule of payments? Cruz said it was listed under another name, and he couldn't remember which.

Cruz reported back to Rayburn later on completing his favor, "Everything came out alright."

Some Los Angeles political reporters were putting together a docudrama on the trial based on the trial transcripts.

The boyfriend of one of the Defense the night before she summarized went over her address with her and then pointed out, "There's an answer to everything you're saying. The only strategy is jury nullification. That's all."

The Sanctuary Legal Defense offices were down the street a few blocks from the courthouse in a swank office complex which also housed a health club. On one of the doors was a black banner throughout much of the trial. "THE TRUTH SHALL SET YOU FREE." A piece of white computer paper was tacked next to it. "EVENTUALLY."

A full day after the Jury was in, the Sanctuary Watts line answered the phone with a recorded message that the jury was still deliberating.

Along with the Sanctuary prosecution, the Government began to articulate new policies regarding Central American aliens. They would no longer be permitted in publicly funded housing.

One had the feeling Robert Hirsh really had to reach way back into a lonely Jewish boyhood to come up with a phrase like “Gestapo” for the INS. “Nazis” and “Gestapo” – these incantatory words epitomized what we had been trained to hate and fear as children.

The audacity of his remark pleased the gallery who applauded him in the corridors afterwards, but it enraged Reno who wanted Hirsh restrained or cited for contempt. When reproached by Carroll, who’d had a special transcript of his remarks made up overnight for the next morning in court, Hirsh pointed out, “You’ve been ruling against us throughout the entire trial...this is our one opportunity to talk straight to the jury...”

Nevertheless, Carroll declared, “I perceive a spirited effort by Mr. Hirsh to get before the jury in this case jury nullification.” With the jury not yet seated he went on, “Some of the matters approach and go beyond what I consider reasonable and appropriate...”

“I think it’s ludicrous,” Hirsh responded, “that I have to get up and defend that...” He’d been interrupted many times during his summation by Carroll who had never bothered to interrupt Reno even when he compared the defendants to “The French Connection.”

(“Whoever loves himself loves an antagonist worthy of others...”)

Hirsh felt picked upon; so did Carroll. They had the perfect hostile integration, of sorts, a relationship of mutual antagonism.

A man named Grieves stood outside the courtroom one morning with some handbills alleging that for some time hordes of Venusians had been landing throughout the Southwest and the INS was doing nothing to apprehend them.

Three days into the week in Phoenix set aside for the Defense and Prosecution to argue jury instructions with Judge Carroll, he let it be known that his definition of “alien smuggling” is “encouraging and inducing,” even though the alien had already decided to enter the country on his own in advance.

This led one of the Defense to say Carroll was “creating a crime.” Which led to further accusations of ‘bias’ by the Defense against the Judge who replied, “If I am biased, it only has to do with conduct that’s inappropriate.”

One morning going into court the man Grieves, who was Papago, pointed out to me, “There’s just as much gonorrhea on this side of the border as in Sonora.”

A lawyer for the Defense told a friend the trial, after the second month, was costing him a thousand dollars a day.

When asked if that was why he rested his case, so as to cut down on courtroom time, he replied with considerable indignation: “Certainly not.”

Heartbreak seemed to pursue Sister Darlene Nicgorski. A friend from Milwaukee came to Tucson to wait out the verdict and borrowed the sister’s car to get around town. She was killed in an auto accident.

Once I asked Father Tony Clark how he felt about the changes which had taken place in his York Pennsylvania hometown paper, The Gazette, from lefty daily to suburban shopper. “It stinks,” he replied. Father Clark was given credit for bringing Robert, “The Beast,” Mugabe

back to Christ when he was in training near Nogales for his fight in Las Vegas against Marvin Hagler. Christ helped Mugabe's soul, but not his fists. He lost easily.

Some members of the Sanctuary Defense attended that fight in Las Vegas, and one of the lawyers came back home the next day with a black eye.

Judge Carroll had been a partner in the Phoenix firm of Evans, Kitchell. A former US Attorney described him as a "hard worker." About Carroll's 'bias' this man said it reflected opinion in the State: "You could go down the street in Phoenix and ask some lawyer what he thought of the Sanctuary prosecution and he'd be all for it, and ask somebody else and he'd be dead set against it...I wouldn't say Earl was any more conservative than most other people in Arizona. They may not respect him in Tucson, but they do in Phoenix..."

A prominent Tucson jurist had this to say about Judge Earl H. Carroll: "If a man set out to do the things he did in court you would say he was acting stupid, but Earl he was trying to act like a Judge. Man like that doesn't like to be any more self critical than taking a shave in the morning. Earl looks at himself every morning and says, I really haven't done so badly, have I? You can't argue with an expert, and he wouldn't let you even if you could."

One day all the Defense appeared in court in black to commemorate by a show of mourning garb the anniversary of the deaths of four nuns murdered in El Salvador. Miss Joan Grabowski of the Prosecution also arrived in basic black that day. When I asked her if she was changing sides, she replied, "I just thought it looked good on me. It's being shown a lot this year, you know. I like black."

When Judge Carroll entered the courtroom in his long black robe, he seemed mildly startled by the inky somber cast to all the defendants. “Tis not alone my inky cloak of darkness, Madame...”

He noticed Miss Grabowski in her smart black separate. The Bailiff said, “All rise.” And when we seated Judge Carroll said, “Ladies and Gentlemen before I call in the jury I’d like to talk about courtroom decorum...” A convention of on-duty undertakers could not have been more orderly. The Judge proceeded to deny some additional motions from the Defense. Judge Carroll kept glancing at the black garbed defendants, who were behaving very well, under the circumstances, though, once again, he cautioned against political demonstrations in his courtroom.

The Judge called in the jury and the entire defense rose in black to greet them. Then Hirsh entered court, late, in a charcoal grey suit and a paisley tie. He was joined by Fife, a few moments later, all in black except for a large silver belt buckle.

Black was the color of Judge Carroll’s glare. With the jury excused again, Walker declared Carroll should surely ‘recuse’ himself because you have not been restrictive to the Government in the same way you’ve been restrictive to us...”

Oral motion denied.

Walker threatened a more formal “recusal motion.”

Carol: “File it in writing.”

James Rayburn of the INS entered from door left with witness Jesus Cruz in a blue tee-shirt and tan nylon over jacket.

When cross-examined by Reno about directions he received from Fife to take certain refugees to California, he replied verbatim, as it were: “You taking road to Wittenberg, making

right to Wittenberg, and after Wittenberg there are never any highway inspectors...” Question: Did Fife send Cruz to Wittenberg or King Claudius? It was hard to tell from Cruz’s basic English. (The translator kept on translating Cruz’s basic English into basic English until corrected that there was no need to translate).

Judge Carroll wore a white shirt with a boiled collar and seemed to feel uncomfortable with the whole proceeding. Cruz was testifying about Father Quinones: “He took the money and said he was going to make arrangements (and he) called Hermosillo...”

Cruz then testified Quinones explained how to pass through Nogales without passing through the Mexican Government checkpoint at Benjamino Hill. Reno gave Cruz a letter and he started to read from it. Hirsh objected because the author had not been identified. There was a bench conference. Recess for lunch. The Judge would rule during lunch on the immateriality of the letter.

Treat every man according to his deserts, Prince Hamlet once observed, and who shall “escape whipping?”

During recess I overheard a conversation between Fife and A. Bates Butler on how best to cook quail.

After lunch Judge Carroll still had not ruled, so Cruz began to testify about the widow Aguilar.

“This is the trial of the Century?” an incredulous Philadelphian with the Justice Department was speaking with a partisan of Sanctuary, “If you ask me it doesn’t show yet...”

“It will,” she replied. “We’re only in our fourth month.”

Two Dutch observers from an international solidarity organization of the Reformed Church came to the trial. They smiled a lot but were otherwise very stolid, as though unsure of what they were watching and who they were watching it with.

“Are many people in Holland concerned?” I asked during a break.

“People in Holland are opposed to your policy in Central America,” he said. His wife grinned at me coldly.

“Pity,” I said.

“It’s most unfortunate,” she said.

“We were in Russia and people are concerned there too,” he said.

“Most unfortunate,” the Dutchman said, in agreement.

“Pity,” I said

“Most unfortunate.”

We kept saying things like that to each other until the recess was over.

A border patrolman near Naco: “We’re not experts on counter insurgency. At best we do population control. At worst we direct traffic.”

A Congressman from Indiana on TV: “They’ll all come pouring across our border unless we get rid of the cancer in Nicaragua.”

A Defense counsel said she “felt a chill” when Judge Carroll said he wished to restrict who the convicted “associated” with. He quickly repudiated himself for once.

So much so that one journalist, observing how entirely amicable Carroll became, with the Constitution no longer in jeopardy, thought a novel about the radicals and the Judge might be titled, like a couple of old sticks of furniture that were never paid for, “The Repossessed.”

Photographers were always taking pictures of the defendants: jubilant, or sad, bemused, befuddled, chagrined. The only photo I ever saw of Don Reno was from a high angle of him seated, which made his short- wide-shouldered body seem even more grotesque, sort of as though he were some modern-day representation of Rumpelstilzkin. Judge Carroll was often shown coming and going from court, with a grin of curt congenital geniality.

Photographers at a trial are a nuisance so the Court would allow only artists to draw what went on in Court. But the photographers and the TV camera people would be on hand outside the courthouse to gauge the mood of the contestants by the expressions on their faces and their body languages.

This was often a matter of misperception. A photo appeared of Fife when the trial was concluded hugging his wife, not so much an expression of relief and good feeling for getting off, as it was an example of the photographer's admiration for an extremely photogenic couple being somewhat intimate. The most expressive face in the courtroom was that of Defense Attorney Walker, I suspect, but he was hardly photogenic: a barrel cactus which had not yet bloomed.

Father Tony Clark told the Court: "As a citizen of the USA, I have always adhered to all the laws of our great land, and yet as I attempted time and time again (to bring matters about the refugees to the proper authorities) "I learned, in turn, I was accelerating their deportations."

In one of the most intense periods in court, when all the defendants made impassioned statements to the Court, a parish priest from Tucson was heard to declare to his ecclesiastical neighbor, "I'd like to have all these speeches in one book."

Throughout the trial, there were those whose religious convictions led them to be edified by the reading of moving and edifying statements, and those on trial who were moved to act.

One reason why Judge Carroll may have denied so many motions from the defense to talk about religious motivation was because he was of a mind that religious behavior was somehow uncivil, if acted out in a public manner. He was endeavoring to keep the separation of Church and State by discriminating between religious beliefs and talk, protected by the Fourth Amendment, and Christian 'acts' which he considered unlawful, if not also unseemly.

What Sanctuary did was as different from speeches in a book as the wetness of Walden Pond was from Thoreau's essay on "Civil Disobedience."

A writer from Montana arrives to use the Sanctuary trial in order to make a case for "the moral ecology of the desert." Good thing he's not a defendant or Judge Carroll would really throw the book at him. During a recess Hirsh is talking about contempt: "We haven't even come close yet. He wouldn't dare..."

He shakes hands with the moral ecologist, like a long lost friend.

"This trial has almost as many writers as defendants..."

"And lawyers," I add.

Judge Carroll and his Bailiff start down the hall toward us and the doors to court. He plainly disapproves of all the talk in the halls between press and participants. Hirsh says, "I just

want to reach the jury. I don't care what he thinks. Besides I know..."

THE METAL DETECTOR

Persons with business at the courthouse in Tucson had to pass through a metal detector with their possessions, manned by a uniformed and armed U.S. Marshall. We live in an age of metal detectors, and, wherever they appear to block an entrance, the suggestion is made in the strongest way that terror lurks.

It's also true that acts of terrorism at airports, in airplanes, governmental buildings and military installations are proliferating.

Nevertheless the presence of a metal detector as artifact, blocking the way for jurors and others at the Sanctuary trial, was prejudicial to the "presumption of innocence" and did help to create an atmosphere of suspicion regarding the defendants. The Court, as part of the State, was protecting itself, but from whom? There was implied, as indirectly as a loyalty affidavit, that the defendants' case might be joined in some ways by terrorists and their arms. Aimed at everybody entering Court, it would, perforce, have to include the defendants and their attorneys.

In fact the metal detector in Tucson was in place before and after the trial and was installed for reasons of security larger than this one trial, but it signed danger to jurors and spectators alike. It was a recognition of the facts of our contemporary jeopardy, but went beyond that recognition and the limitations it included, to make a general statement of the potential for violence of those who were on trial which even the Judge and the entire legal system claimed to be assuming was so, whereas, in other respects, they were supposed to be innocent until proved otherwise beyond a reasonable doubt. What I am saying is, at every recess, and before and after every session, the Court was somehow stating to the gallery, in its largest aspect, that there was some potential for violence in this procedure which related in some ways to the persons of the defendants on trial, their friends, and those of the prosecution, and the press which was reporting

on all this. As security procedures become more elaborate, the very presence of these mechanisms and procedures should come to be seen as a factor influencing the presumption of innocence.

“...Or Whatever”

“Suspected persons might be kept under observation by different methods, which were for the most part applied so as to supplement each other as far as possible. There were, on the one hand, the so-called system of External Observation, and, on the other, the Internal or Secret Agency.”

The Ochrura, Vassilyov

In his opinion on the “bias” of Judge Carroll, written on 12 November, 1985, but released in written form only after a verdict, Federal Judge Richard M. Bilby wrote, “It is inevitable that remarks will be made, that upon calm reflection, might not have been made. However, the totality of these remarks – all of which preceded the actual conduct of the trial – do not convince this court that Judge Carroll has pre-determined the guilt of the defendants and that his conduct is based upon that pre-determination.”

As the man who presided over the Federal trial of the Hanigans, Judge Bilby was considered by many to be a great Federal Judge, so it is difficult to argue with his observation except to point out the ways in which Carroll denigrated the terms and concerns of the defendants regularly, by making analogies which simply were not appropriate. I have already mentioned his whimsical remarks about inviting two Salvadorians to go to Chez Luis in Phoenix, as though that might ever happen. The transcript is fairly larded with such inept and inappropriate conceits. Here's one that must have come under Judge Bilby's purview, as it was uttered on 6 November, 1985, when the court had still not heard opening statements by the lawyers.

The prosecution and defense were arguing the admissibility of evidence gathered by Jesus Cruz about Sanctuary refusing to transport Hondurans. The prosecution wished once more to show that by objecting to helping the Hondurans, as identified so by Jesus Cruz, the charges against Sanctuary could be furthered to the jury.

What they clearly didn't do helped prove what they did do, in other words. "They were talking about past facts in order to establish their future conduct," Reno declared, "or formulate future strategies."

Judge Carroll seemed to be accepting the argument of the Defense when he pointed out to the prosecutor: "Let's assume that the discussions in Tucson about not bringing someone that doesn't fit within the conspiracy..." It suddenly became necessary for the Judge to analogize. "Let's assume you have a conspiracy to transport cantaloupes..."

Mr. Reno, "Cantaloupes, Your Honor?"

The Court: "Cantaloupes and someone says they want to transport watermelons. Now the mere fact that someone may have transported watermelons does not seem to me relevant to

the conspiracy. The discussions about not transporting watermelons as such and transporting only cantaloupes would be something to do with the conspiracy.

Now, if this was related to a substantive charge against Father Clark insofar as the movement, then I can see that it, arguably, would be admissible, etcetera.”

By analogizing Salvadorians and Hondurans to cantaloupes and watermelons, Judge Carroll demonstrated a certain invidiousness to the “aliens” --- or refugees – as sentient human beings. Judge Carroll always tended to see the Central Americans as inanimate objects, somehow different in their humanity than the rest of us: “...there is discussions back and forth,” he pointed out, “about not transporting Hondurans, or whatever...”

Whatever, Judge Carroll really felt, he always tended to depict the Central Americans as cantaloupes, or watermelons, Hondurans, or whatever. They barely seemed to inhabit specific identify, or nationality, or the same sentient world as himself, his friends and judicial colleagues. They were often unresponsive he observed, when they were asked direct questions on the stand, a Central American trait, he believed.

The Judge’s ‘bias’ was such that even when he seemed to be ruling with the defense, as in this case, he was also busy creating for himself a distinct category of sub-humans who could be likened to cantaloupes and watermelons. Carroll was convinced, based in part on his interpretation of what Sanctuary had told “60 Minutes” and the rest of the press, that the law had been broken in transporting Salvadorians, or Guatemalans, or Hondurans, or watermelons, or cantaloupes or whatever.

In his written opinion defending and upholding Judge Carroll, Judge Richard Bilby argued, “it is true that Judge Carroll, on several occasions, has commented that some of the defendants had admitted doing the acts. This is merely a simple statement of fact. This Court,

by pure chance, observed the “60 Minutes” episode showing one of the defendants assisting a person who has admitted to be an illegal alien enter the country.” Like Carroll, Judge Bilby was clearly giving no credence to the 1980 Refugees Act which conferred, in Sanctuary’s view, on advice by counsel, refugee status to those who had hitherto been objectified as “illegal aliens.” The difference between refugee and illegal alien is precisely the difference between Salvadorians and Hondurans, and cantaloupes, watermelons, or unresponsive subpoenaed witnesses.

Judge Bilby also made it clear he was not ruling on those interactions in court which “are uniquely those types of things which are reserved for an appellate court’s review on appeal.” In other words, the same Judge who presided over the civil rights suit which convicted the Hanigans was clearly reserving some possibility that his colleague may have been acting in a biased manner, though, like Carroll, he tended to flatten out and objectify the Central Americans who were the motive for Sanctuary’s acts by seeing them as “aliens.”

“Let me say,” Judge Carroll would continually interject to the Defense, as though they were all antagonistically trying to keep him from utterance. “Let me say I don’t think we can all sit here and anticipate on when you are going to object or why...”

Judge Carroll’s insensitivity to others and his perception of others’ otherness, as different from his own identity as a grape from a muskmelon, was often faulty enough to be confused by others of more socially liberated views as “bias” whether Judge Bilby could discern this or not. But Carroll and Bilby were probably correct in perceiving a certain antagonism directed, on the part of the Defense, toward Carroll, and the Judge must have though he was only giving back, in his opinion, as good as he got.

By Carroll's time in life you get the face you deserve. His features often appeared set into stone when addressing the Defense. In a colloquy with James Brosnahan about a motion late in being filed, for example, Carroll asked, "When are you going to file it?"

Brosnahan: "My people are working through the night, your Honor, so am I."

The Court: "So do I."

Mr. Brosnahan, "It will be here, don't worry about it."

"Mr. Brosnahan," Carroll replied, with a huff and a pout, "I don't worry about any of those matters."

If Carroll could anticipate antagonism in an adversarial situation for the defense, it, nevertheless, did not follow that he must turn adversarial in reply against the Defense, or their clients. But he had already made up his mind that cantaloupes and watermelons, or whatever, were analogous to the human cargos who usually rode beneath the loads of cantaloupes and watermelons in order to find Sanctuary, or whatever, in the United States.

Judge Carroll's "reductionalism" was central to his narrow legalistic mode of treating of a public concern; he also labeled Jesus Cruz's unsubstantiated allegation that Father Tony Clark had transported three Hondurans from Sacred Heart Nogales to Tucson "Father Clark's independent frolic." By making light of the alleged act he may have been seeming to denigrate its significance for the "prosecution"; he was also denigrating all such acts of generosity, and merciful behavior.

Would it be fair or just to analogize Judge Carroll's court talk as Panglossian?

There were times he wished us to believe that Sanctuary had acted like a bunch of kids playing with fire, and wasn't it good and nice that the prosecution on behalf of the Government didn't engage in real reprisals, or rough stuff.

Social workers often engage in interventions for clients with governmental agencies to secure them welfare, or from being evicted from public housing. During the Sixties I wrote a book about poverty in New York and spent a lot of time at the various welfare centers intervening on behalf of persons, who were not my clients since I was not a social worker, to get them put on the dole, or to get certain items, such as a baby layette, budgeted, which they'd been refused by governmental functionaries.

In those pre-Reagan days, we used to argue effectively that public assistance was a right. The government might well have maintained that the benefits we were helping to secure for our friends and neighbors were illegal, and we were colluding in attempts to defraud the public welfare system. Recognizing, though, that their functionaries often acted lawlessly, by arbitrary whim or self-stated policies, they granted whatever was legal, when pressed, and ruled against discretionary policies until, under a new administration, they acted differently.

In the case of Sanctuary, the Government argued that the defendants were taking the law into their own hands and that the interventions they made on behalf of aliens, or refugees, with the INS, after advice of counsel, away from the Border, were equally illegal, since refugees were required to report to the INS immediately on coming over the border. This suggests powerfully, I think, that Sanctuary was not prosecuted by local officials but through the INS in Washington and perhaps even the Justice Department and The White House itself. Sanctuary's criticism of those US policies in Central America which resulted in refugees bothered ideologues at the top. It was of no concern to the Border Patrol and other functionaries who continued to act lawlessly

toward refugees, if they were caught coming across the Border, though not always consistently, as a matter of top down policy. As one Border Patrolman put it, “We had orders to arrest those people if we could. We didn’t always want to. Some of us actually felt they were helping us to do our jobs right.”

When Government officials take the law into their own hands we call that policy-making; private citizens who do the same are usually called felons.

Responding to a letter from Congressman Don Edwards endorsing a Freedom of Information request about break-ins of Sanctuary churches across the United States, FBI Director William Webster pointed out on April 11, 1986 that investigating such matters was the business of “local law enforcement.” He denied that the FBI had ever participated in such acts. But he admitted, in a left handed way, there might be a basis for such action by the FBI “based on foreign involvement.” “Under certain circumstances, there could be a basis for conducting a foreign counter intelligence or international terrorism investigation. Specific investigative procedures for this type of investigation are classified.”

In the form of a denial this was an admission. The Director of the FBI was singing alto in an increasing chorus of governmental officials who were beginning to claim that almost anything had to be done to protect us from the international terrorists; and Sanctuary had to be prosecuted as a deterrent to the possible importation of terrorism: “FBI records did not reflect that these organizations had been the subject of an FBI investigation, but information regarding them has been indexed to the files of other organizations and individuals. Of nine such references which were located by the Boston office, six were classified, two were withheld to protect privacy and confidentiality, and one was released. The FBI’s withholding of the information under the FOIA

has been appealed to the Department of Justice where it is presently under review. Additional information would be released only if the current review determines that these documents no longer warrant classification.”

The FBI has always been the principle governmental agency investigating questions of national security, so it is reasonable to suppose Webster, in admitting by denying, was classifying to keep hidden, clandestine.

The term “Classified” can mean embarrassing to the Government as well as “top secret.” There was an FBI informant in Harvey Cox’s Sanctuary church in Cambridge Mass and he wrote home to the boys in the Hoover building in Washington, about his religious experiences. And from time to time trucks parked outside Sanctuary churches indiscriminately recorded meetings and perhaps marital counseling sessions. The INS took the photos at Alzona Lutheran Church in Phoenix of Sister Darlene and the Salvadorians. If there was a possible “terrorist” connection, would the FBI hold back?

“The invitation to abandon illusions concerning a situation,” Karl Marx once wrote; “is an invitation to abandon a situation that has need of illusions.”

When Sanctuary made itself public it was simply acknowledging, as it knew, that it had already come under the scrutiny of governmental agencies and functionaries.

“Society provides most of the make-believe,” James Corbett had observed, “that prevents our hells from surfacing into full consciousness.”

Somebody or other, maybe the FBI, was breaking into Sanctuary while Corbett and his friends were still trying just as hard to break out from a lawless government. “Sanctuary,” Corbett summed up, for Sister Mary Malherek of the Maryknolls, the verdict in Judge Carroll’s

court went against his friends, “is not civil disobedience; its civic initiative to protect rights and laws which our government violates.”

The refugees who were helped by Sanctuary continue to remember these acts. “With much love,” a refugee on the stand told the Court, “I remember, they offered me shelter when I needed it.”

“NO CRIME NO PUNISHMENT”

“And these things has thou
hid in thine heart.” I know that
this is with thee.

If I sin then thou markest me,
and thou wilt not acquit me from
mine iniquity.

If I be wicked, woe unto me.
And if I be righteous, yet will I not
lift up my head. I am full of confusion.”
Therefore see thou mine affliction.”

Job, Chapter 10

Just as there were no actual crimes committed there were, perforce, no effective punishments meted out, beyond wasted time, monies squandered, energies depleted. As felons, the convicted forfeited their rights to vote and bear arms. They were all placed on “probation” and given “suspended sentences” of from 3 to 5 years, and they would have to get permission from their probation officers to leave the State. They were required not to engage in “illegal” activities such as “alien smuggling,” which they always had denied they had ever done.

“A lot more people know about Sanctuary” was the refrain of the convicted supporters in the early days of the summer of 1986 which, though probably true, was a little bit like saying people were more diet conscious since there had been so much heart disease. The political and religious aims of the Sanctuary movement were untrammelled by the complications of a victory in court.

Tucson in early summer looks a little as though it has all been dusted and stashed away behind a large glass chiffonier, to collect even more heat and dust. Almost everyone who doesn't work at jobs seems to go off elsewhere. The City dries beneath the sun like some porous mass of apricots and raisins in which there are still hints of animal and vegetable matter; and one feels as though one has come to live inside a large stale macaroon.

Tucsonans last summer were not so interested in the Sanctuary Sentences; they'd become more frightened by a so-called "prime-time rapist" who was attacking largely upper middle class households during family TV-viewing hours, sodomizing children, wives, even grandmothers at gunpoint, and hanging about until the next morning when he went off to the bank with the master of the house to withdraw as much money as he could. The Police had failed a number of times to apprehend the sadist, though they circled the better neighborhoods with searchlight-bearing helicopters almost the moment they had word of his presence. Their common systems wouldn't mesh sufficiently with those of the Pima County sheriff's cars, and he was always managing to slip away to rape and terrify people once more. "I've found there's someone like him in every large American city," a New York Times man said, as though that were consolation. "The more I travel about the more I come to know of these things."

The sentencing of the Sanctuary 8 was scheduled to be an event. There was a support gathering arranged for the evening before at Temple Emanuel, and there would be visitors with letters of support from their communities, as far away as Setauket, Long Island.

Having been acquitted, James Corbett was at a friends meeting in Minnesota, but Nena MacDonald came all the way back from Lubbock, Texas to offer Solidarity to her convicted comrades at the Temple. Folk singers entertained with wry solidarity songs, doggerels of defiance: "Ain't you got a right to the tree of life? We are the boat

We are the sea.

I sail in you.

You sail in me."

By June 30th, Sanctuary's media office was distributing a letter from Arizona Congressman, Morris Udall, to Judge Carroll, which was co-signed by more than 40 other liberal members of the Congress on behalf of the Reverend Fife and the other members of the government-convicted "conspiracy", expressing the hope that the Judge would consider the "underlying circumstances" in Central America and the "humanitarian motives" before "passing sentence."

Udall used to represent all of Arizona, its sole Congress-person. Now, because of population growth and gerrymandering, he seemed to represent only those parts of the State where there were Democrats, and that included only small portions of Tucson. He had another election to wage in November, and was bucking population influx, the brown tide of Reaganism.

The morning of July first seemed muggy and hot to me, but I was told the day might not be so bad as days had been recently, with temperatures well above 100. The brief torrential thunder storms and lightening shows would be coming on soon. Meantime, glass, heat, bank thermometers registered 95 at 7 in the morning.

We all gathered once more at Five AM to wait 3 hours to be admitted to Judge Carroll's small courtroom at 8 for the sentencing, which was to begin at 9AM. Once more the banjo pickers and guitar strummers appeared to serenade faded hopes of religious insurgency, and, along with the press, stood some of sanctuary's hangers-on: retired clergy, young sincere enthusiasts in logoed tee shirts. Shortly before 8, a truck pulled up across the way from court and some guys unloaded an albino-white life sized paper-mache Christ, which they proceeded to affix to a wooden cross on a traffic stanchion opposite to our line. Nobody seemed that interested in this Christ effigy. Most were tired and uncomfortable. Delegations were constantly being sent off for more coffee in paper cups. Along the line of march, waiting to enter court

were a couple of Central Americans, and a Mexican observer from Amnesty International which had also informed Judge Carroll by letter that it was following events in Tucson.

We entered court to observe a change of mood. Convivialities were being exchanged by bailiffs and marshals with the prosecution and the Defense. A large contingent of the INS was on hand, including General Counsel Inman and the Phoenix regional director; and agents and government officials now stood behind the bar, or sat inside the jury box, with worried smirks, while Inman worked the room, shaking hands.

He is a tall portly person, with brushed back grey hair; and he wore a dark suit, and a red tie, as though expecting to be on TV. When I went over to acknowledge receipt of his letter, he told me he and his colleagues were just on hand “to observe” the proceedings, and turned immediately to the next questioner from the press. Throughout the sentencing, Inman and his colleagues sat inside the jury box, appropriately enough, as though tricked out in modern dress to be the choristers for this newly-discovered Gilbert and Sullivan operetta.

Also seated in court was Don Reno’s wife, looking very chic, with her ashy blonde hair subtly streaked, in a dress of pink dotted stripes such as one might wear to the bar mitzvah of a colleague’s son. She is a striking looking woman, thin and pretty, the skin on her face artfully distressed, like an aging bar hostess. When she was introduced by her husband, the special assistant U.S. attorney, to the Reverend Fife, who’d been ushered by Reno to the gallery where she was sitting, the Minister declared, with seeming conviviality, as though in the lobby of a theatre, or at a reception, “I enjoy meeting you more than I did your husband.”

First to be sentenced was the Methodist church worker Peggy Hutchinson and after the “all rise”, with which the bailiff greeted Judge Carroll when he appeared at 9 promptly, his honor made it clear he would have some things of his own to say to the court, the public, the

defendants, for the press, when all had been given justice. Then Peggy Hutchinson appeared, with her lawyer, at a lectern, and his Honor declared, as he would with everybody he was to sentence, with a seemingly genial ominousness, “Peggy Hutchinson this is the time fixed by the court to pronounce sentence.”

She and her lawyer were asked if they had read the reports filed by the Probation Department. The Judge declared he had read many interesting and moving letters and other documents attesting to the worthiness of Peggy Hutchinson. She was asked if she had a statement to make “in mitigation.”

Peggy Hutchinson is a slight, seemingly demure woman, with an effectively dramatic vibrato. Because she was an extremely effective speaker, she’d been suggested by sanctuary to be the first to be sentenced. By way of “mitigating evidence,” she spoke with strong and moving simplicity: “...I stand before you today, Judge Carroll, with the belief that most, if not all, of the material witnesses in this case as well as thousands of men, women, and children who have fled their homelands in El Salvador and Guatemala are refugees as defined by law and not illegal aliens.”

She spoke at length, perhaps 30 minutes, with a cultivated accent, though without affection, and talked of her religious schooling and her work as a Christian, her calling and vocation and what she had to say was careful, though uncompromising, and seemed to move toward the inevitable contentions which were always so upsetting to some people in the Community and to the court: “It is common for Jewish people to proclaim “Never Again” in terms of never forgetting the Holocaust and never allowing it to occur again. Today I stand before this Court to proclaim as a Christian, Never Again should our Nation stand by silently in the midst of a different Holocaust, in this case, the people of Central America.”

It was the first, but not the last time, during the sentencing proceedings that Judge Carroll and the officials of the INS would be compared, albeit obliquely, with all due respect, to bureaucrats of the Final Solution.

Carroll remained genial, his voice honeyed, like a man with hole cards, and when I glanced toward the jury box on the prosecution side of the court the INS contingent and some probation officers were looking like a newly chiseled extension to Mount Rushmore.

Suddenly all the attorneys in the room seemed to be sitting, or standing, with their arms folded across their chests except for the newly-genial Judge Carroll who responded with “thank you very much” and was proceeding to pronounce a suspended sentence of five years probation, and she was abjured from any further “illegal” activities and from associations with “illegal” aliens. When Peggy Hutchinson declared that, in all candor, she was not sure she could live with the terms and conditions imposed on her, Carroll reminded her that her activities had been judged as “unlawful.” Finally she said she would ruminate on the terms imposed, “reflect,” was her exact word. But, by the time Phillip Willis Conger, the third to be sentenced, had been given similar justice, Justice Carroll was deleting the proviso about associating with aliens for Peggy Hutchinson, as well as all those others who were convicted. (In the same week, 6 years ago, the Salvadorians had been found dead in a locked van in the Sonoran Desert.) In effect having all been judged felons in his court, Judge Carroll was simply requiring the convicted on probation to obey the immigration laws, which they maintained they had all done all along.

Defense Attorney Mike Picaretta, who represented Peggy Hutchinson, said he believed the terms of Judge Carroll’s probationary sentencing meant, “If you can’t understand what you’re supposed to do you can’t be punished for doing it....”

The convicted all made strong statements on their own behalves and on behalf of their cause. They said all the things about murder and torture in Central America and the unlawful discretionary procedures of the INS which Judge Carroll had prohibited them from entering into the trial; and they all, in one way or another, reproached him for his conduct of the trial as unfair and biased on behalf of the Government, and there were many who drew the analogy to being silent during the time of the Nazis, a reproach to Judge Carroll in the form of a pat on their own backs, and the Mexican priest, Father Quinones, reproached the U.S. Government and the INS for its intrusions into Mexico, its unlawful procedures in Mexico, its violations of Mexican law and sovereignty, and slanders of Mexican officials.

Sister Darlene Nicgorski spoke of the murder of her pastor, Father Tullio, by death squads in Guatemala, and of the refugee camps where she had served in Guatemala and Honduras, and she showed slides of the camps, and their primitive conditions, though confessing later, when queried, that she also had on hand slides of corpses and other atrocities which she “could have shown” but had not. She kept asking Judge Carroll: knowing what I knew, what else could I have done but act as I did?

And she asked for an alternate sentence in Honduras, in the refugee camps, or even in Guatemala, where her life might be in real danger; and later told the press that she would have regarded being put behind bars, in prison, as part of her calling.

Phillip Willis Conger took great pains to point out how many times, and in how many ways, he had attempted to act through the system to help refugees, and how the Government had frustrated these attempts. He declared himself religiously motivated which caused Reno to declare, when it was his time to give allocution, that he believed otherwise about Mr. Conger who, he said, was a second offender with a political axe to grind.

This all seemed relatively perfunctory and the Judge passed sentence on Phillip Willis Conger much as he had done with Sister Darlene and Peggy Hutchinson, with the same terms.

Sentencing lasted a day and a half and emotions were strongly expressed. Some compared their acts to those of the late Dr. Martin Luther King; others to conscientious Germans during the third Reich; still others pointed out the refugees had been on trial and were the true victims. The Spanish-speaking widow Socorro De Aguilar broke down and cried, so Judge Carroll expressed chagrin that he could not speak Spanish, as he fetched her Kleenex.

He tried to console the raw open anger of Father Tony Clark, and he heard himself reproached by Father Quinones for not knowing Spanish, for U.S. Attorney, Don Reno not knowing Spanish, for the illegal efforts of the U.S. Immigration on Mexican soil in making deals with “coyotes” and seeking to embroil the Father and his Christian friends in a “conspiracy.”

In the case of Sister Darlene Nicgorski, that count was announced as discussed by Judge Carroll as soon as she appeared to be sentenced; and he also extended to the Mexican nationals, Quinones and Socorro, what amounted to unsupervised “probation” beyond the U.S. borders, where they were simply required to obey the laws.

“The people of this blood-stained world have suffered from the people,” the Reverend Fife told Judge Carroll, “who exercised authority without responsibility.”

“We are the only Country in the world that deports Salvadorians back to El Salvador.”

With the defendants all saying those things to the Judge which they had been barred from saying while the trial was ongoing, and accusing Carroll of controlling evidence and arguments, and asserting their confidence that, if they had been properly heard, in the fullness of their testimony by the jury, they would have been declared innocent, everybody seemed more or less content, on proper reflection, to accept the terms of their probations, pending appeals.

Sister Darlene Nicgorski declared: “I accept this decision in the current political context in which dissent is being silenced.

An effort seemed in the works, on the part of the Government, and in the person of Judge Carroll, to preach reconciliation of a sort. When Reno seemed to raise objections to Fife’s lenient sentencing, by pointing out this principled man who stood before the Court was not the same man he’d heard on “hundreds” of hours of tapes being vain, even profane, Carroll allowed him to speak uninterrupted, and then, with another thank you very much, went on to pronounce his by now customary “suspended sentence” with five years probation.

His honor had announced he would deliver himself of some remarks after sentencing, and they too, seemed largely conciliatory; in the afternoon of the second day of sentencing, he complimented the lawyers on their abilities and extolled the good intentions and humanitarian motives of the convicted, and even went so far as to suggest that it was too bad all the Salvadorians and Guatemalans were not represented by such fine attorneys when they came before the INS. “One could certainly find fault with the INS procedures,” he said.

Judge Carroll urged everybody to try to work within the system; “I believe the kinds of activity that are available are the key to a legal system that has been the best and fairest in the world for the past 200 years.”

He said helping “aliens” find refuge in this country is not the only response available, and he pointed to certain efforts evidenced from a letter to him on behalf of Father Clark, of the Padre’s attempt to get legal counsel for an alien to make asylum application in Nogales, Arizona. This caused Defense Attorney Ellen Yaroshevsky to say out loud, from her seat at the counsel

table, that the alien's asylum petition had been torn up by the INS when it was submitted to them.

Be that as it may, putative crimes bring plaintive and putative expiations: Sanctuary, by the end of the two day sentencing, seemed prepared to have the convicted individually sign probation documents that they would abide by the terms stipulated, for they also were serving notice of appeals. And, after urging dissidents to make better use of the system, Judge Carroll returned to his life in Phoenix where one of his hobbies seemed to be buying numerous pairs of wing-tipped shoes.

Both the U.S. Attorney and the Defense now claimed victories. Reno said the convictions would be a "deterrent" to other lawbreakers, and the Defense said the liberal terms of probation meant their clients would not be deterred from their mission and ministry of sanctuary.

Sister Darlene Nicgorski called her sentence a "cruel hoax" of justice, but thought she was inclined to abide by its terms in so far as she now understood them.

One of the Reverend Fife's Presbyterian admirers from the East declared: "Whatever gets the work of the world done."

Nobody seemed absolutely certain yet what they were agreeing to, and what sort of behavior they would have to forgo.

A juror sympathetic to Sanctuary, who had eventually been cajoled into voting for conviction, expressed relief that nobody would be going to jail, or would be fined, as she had expected. She believed the sentences hadn't really changed anything. Sanctuary would continue to do what it had been doing, and the Government would still be trying to round up and deport illegals from Central America.

Possibly, though, she thought, the refugees might benefit. A lot more people were aware of what was happening to them, she said.

When I spoke to Reverend Fife a day or so later, he also thought, on reflection, that a lot more people were aware of Sanctuary's work, but "the problem with everything that happened is nothing happened...No clarity has been brought to the situation," he argued. "In terms of the refugees we're exactly where we were two years ago...it's just as desperate."

There are some setbacks which almost come to seem like victories because things could have been so much worse. Judge Carroll's final words to the court seemed calculated to imbue his case before the public with good intentions toward Central Americans, and sought to absolve him of bias, as though his slanting so radically in one direction was solely to joust with illegal and unlawful behavior.

Terrible things were still happening: death threats to some of the convicted Mexicans, if they persisted in their work, their homes broken into and ransacked: deportations proceeding apace and the Human Rights activists in El Salvador being rounded up and confined in prisons as accomplices to the insurgency.

There's also been a split in the Sanctuary movement between those identified with the 'Chicago Task Force,' who wished to create an ongoing political movement larger than the refugee issue, and those from Tucson, who saw Sanctuary's mission to be fixed on the Central American issue, its critique of the American political order implicit otherwise.

The eight, who had been convicted and branded as felons in Tucson and given probation and suspended sentences, all seemed certain their activities would go forward, in some form, or capacity. But, if Time is Love, commitment, like "the Law", in Fife's final words to the Court when he was sentenced is "time-dated."

The demonstrators and the people with guitars and the people with cameras were always in waiting for us when we came out from beyond the metal detectors for every recess- to walk, blinking, into the hot blind eye of the sun.