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U.S. Under Fire For Foot-dragging in Prosecuting Ex-Nazis

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Hermine Braunsteiner Ryan, the drab little spouse of a Queens, N.Y., construction worker, once a brutal S.S. guard at the Ravensbruck and Majdanek concentration camps, is the only Nazi war criminal ever to be

Second of Two Articles

deported or extradited from the United States to face trial.

The Ryan case is considered important for several reasons in addition to its being a historic first for the United States. The widespread publicity surrounding the case during the late 1960s and early

1970s triggered an avalanche of new information about alleged war criminals living in this country, just as the Eichmann trial in Israel in 1960-61 reawakened worldwide interest in the entire war crimes issue.

The U.S. Immigration and Naturalization Service (INS) is currently investigating 45 individuals suspected of being guilty of war crimes and atrocities and who have lived quite openly and in most cases, undisturbed in the United States for 20 or more years.

THE CASE is also important in understanding some of the controversy surrounding INS's current war crimes investigation. And it helps an-

swer the questions of those who wonder why the U.S. government doesn't simply kick these people out of the country and back to European and Russian courts to stand trial on atrocity charges.

The principals involved in bringing Mrs. Ryan to court for extradition or deportation, namely Vincent Schiano, the chief trial lawyer for the Immigration Service, and Anthony DeVito, chief investigator on the case, became enmeshed in a gradually escalating struggle with INS over what

they regarded as the service's extreme reluctance to press the case.

The impasse degenerated into bitter arguments and recriminations and resulted in both men leaving the service, Schiano resigning to go into private law practice and DeVito taking early retirement.

Brooklyn-raised Vinnie Schiano, as he is known among his former colleagues at the mammoth New York District office of INS in lower Manhattan, is a 20-year-veteran of the Immigration Service and rose to become their top prosecutor, handling

all the major cases such as Carlo Gambino, the Mafia chieftan, Xaveria Hollander, the "Happy Hooker," Joseph Cahill, the Irish Republican Army boss, and musician John Lennon.

Schiano is 53 and looks 37. He's a flamboyant dresser — open-necked pink shirt and blue polka dot suit during a recent interview in his Wall Street office — and he looks more like a Mafia numbers runner on Flatbush avenue than INS's former top lawyer. The Ryan case was ultimately successful, he claims, not because of INS but in spite of them. He insists that the Immigration Service was not only reluctant to prosecute Hermine Braunsteiner but actually tried to

hamper the investigation series of bureaucratic moves subtle, some crude, designed to string him and DeVito.

"I had been with INS long to know when the government 'go' and when it doesn't, and case, they definitely didn't want Ryan," Schiano said. "There's a whole series of things happened them directed from Washington got virtually no help or assistance with the case after we were responsible for Mrs. Ryan.

"OUR MEMOS would go unanswered. We had a hard time

See NAZ

NAZIS

Continued From A-1

money to pay witness expenses and we had to use our own (they were later reimbursed). Papers disappeared from our files. Bureaucratic stumbling blocks appeared all over the place. There was no question in my mind that some sort of fix was in for Mrs. Ryan.

"The last straw was when they kicked me out of my office and gave me a cubicle with a telephone. They were out to demean me in every way, especially after I produced my own list of 50 war criminals who were living here. They thought we were tilting at windmills but when they found out we were serious about going after war criminals, they quit playing around and got tougher.

"On the Strughold investigation, for instance, they killed that one even before we got started."

Tony DeVito, who is a cousin of Mario Puzo, author of "The Godfather", confirmed Schiano's account. "They did their utmost to block the Ryan probe," DeVito said. "For example, I was assigned the Maikovskis investigation, (a retired Long Island carpenter sentenced to death in absentia and charged with killing 14,000 Jews), and it was listed as the lowest priority. Lowest priority!

"All through the Ryan case and the subsequent investigations of these other war criminals that we began, we were discouraged and harassed. I eventually came to the conclusion that there was some type of cover up. Somebody was protecting these people. Why else wouldn't they go after them."

SCHIANO AND DeVITO have a variety of scenarios to answer this question, ranging from CIA involvement (some of the alleged war criminals may have been very helpful to the government as sources of information during the Cold War), to pressure on the INS from politically important anti-Communist right wing emigre groups via Congress and the White House. Some of the other

these charges and Henry Wagner, the head of investigations in the Immigration Service's New York office, charged that they are only so much rhetoric, that Schiano, while "brilliant," is erratic.

Wagner, a slick-haired Brooklynite who looks like Walter Mathau's kid brother, argued that his office, which now has prime responsibility for the entire war crimes investigation nationwide, had worked hard, conducting hundreds of interviews, chasing leads, doing a good job.

"Schiano's got a grudge against the service," he said. "He knows darn well you have to have real hard evidence before taking these people into court for extradition or denaturalization. They are entitled to due process just like any American citizen.

"Witnesses to crimes that happened 30 years ago are very difficult to locate even in the U.S. and getting evidence from overseas, especially behind the Iron Curtain, is extremely difficult. Why has it taken these Jewish organizations so long to get these people. Hell, how do you get witnesses to war crimes in Estonia when they are supposed to have killed every Jew in that state."

The Immigration Service, in trying to deport permanent resident aliens or naturalized citizens, is hampered in various ways by the current immigration laws. They must prove that an immigrant was legally excludable when admitted, that they lied when they swore an all-encompassing oath on entering the United States that they were not involved in war crimes or political persecutions. And that in effect means proving that they committed war crimes by staging what amounts to a full blown war crimes trial as happened in the Ryan case.

IF THE INDIVIDUAL is married to an American citizen or is the parent of children born here, that person cannot be deported unless they voluntarily renounce their citizenship. This happened in the Ryan case in what is widely regarded as a fatal legal mistake by her lawyers and it

gration Service was reluctant to press the Ryan case and dragged its feet on the other war crimes investigations is difficult because practically all of the top INS staffers directing policy from Washington and in New York during the Ryan case have since retired.

But conversations with a large number of officials and interested parties on both sides of the issue point to a combination of factors for the difficulties faced by Schiano and DeVito in the Ryan case, and for the government's long delay in tackling the entire war crimes issue. Among them:

- Schiano's action-oriented personal style, which includes little patience for the snail-paced bureaucracy, earned him the enmity of top INS officials including Edward K. Loughran who was effectively running INS during the years of the Ryan case.

- The Jewish political groups and the concentration camp survivor groups in the United States and abroad are fragmented and do not work together in the hunt for war criminals and in locating witnesses. The INS, for example, circulates war crimes case leads and information requests to 60 groups and individuals in the United States and about a dozen more overseas.

- Many of the alleged war criminals here are politically active in emigre groups that have been vociferously anti-Communist and during the long years of the Cold War there was little pressure or anything to be gained by launching investigations of these people and their groups. In fact, many of those questioned by INS and the news media over their alleged crimes claim that the accusations are simply Communist propaganda.

- Bureaucratic inertia over the years by INS coupled with the fact that there is little political profit in chasing and trying to deport a relative handful of people in the absence of strong public or political pressure.

- Finally, the difficulty of gathering sufficient evi-

American citizens.

INS insists that the burden of proof must be overwhelming before a citizen can be successfully denaturalized or a permanent resident deported or extradited. Gathering the evidence becomes very difficult when it comes to locating witnesses, especially behind the Iron Curtain. And the U.S. State Department, by several accounts, has been less than co-operative in arranging witness depositions in some of the current cases.

COMPLICATING the equation is the fact that the Washington still does not recognize the Soviet acquisition of Estonia, Latvia and Lithuania and has no extradition treaty with Russia which means the United States will not return war criminals indicted or convicted in Soviet trials.

In the case of other Communist nations the

State Department has ruled against extraditing war criminals found guilty in these countries because in its opinion, they would face "persecution" if returned to their homeland to stand trial.

Yugoslavia, for example, has been trying to get Andrija Artukovic into court for years and has even requested his extradition through the United Nations War Crimes Commission.

Despite being under a U.S. deportation order for 11 years, Artukovic remains here. The State Department recently reviewed his case at INS insistence and ruled again that he would face persecution if returned.

State's position on the Artukovic case annoys a lot of people, including top officials of INS and Congresswoman Elizabeth Holtzman who has been instrumental in getting INS to press the war crimes investigation

more vigorously. Until she began a heated exchange of letters with INS Commissioner Leonard Chapman last year, INS appeared to have been doing little on the issue. Now, she agrees, the Immigration Service appears to be doing a better job, at least on the more "notorious" cases.

Where it will all lead, whether any of the 45 in the current INS list will ever be forced to leave the United States and face trials for crimes they committed 30 years ago, remains uncertain. And there are those who feel that maybe the publicity and the harassment that some of them have received as a result of the previous publication of the INS list in the news media has been punishment enough.

All of the 45 who have been contacted by the news media have strongly denied the accusations, many have moved or tried to hide and

probably all have taken unlisted phone numbers in an effort to escape the publicity, pressure and threats.

But most of those involved in any way with the issue of war criminals feel that if the INS can deport or have them extradited, they should be forced to return and face trial no matter how old or ill they may be.

SAID SCHIANO, whose single minded pursuit of a prosecutorial ambition cost him a distinguished government career: "World War II and the events in which these individuals participated were the worst six years in human history. I think the public has a right to know that these individuals are living among us, and why they have been allowed to do so undisturbed for so long.

"I'm not saying we go after them with a sense of vengeance. But I think a reckoning is in order."