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# Nazis — free from prosecution?

By Marc Eprecht  
 West Germany's Consul-General Winfried Engemann, appeared at York last Wednesday to shed light on the call for protest against the imminent expiration of the German government's statute of limitations.

If the statute of limitations is allowed to expire Nazi war criminals whose names have not been submitted to the West German prosecutor before the end of this year, will be free from any prosecution or incarceration.

The Council of York Student Federation and the Jewish Student Federation co-sponsored Engemann's appearance, at which about 50 people showed up to listen to him explain the facts behind what is becoming a stormy political issue in Germany today, and which will, in the future, have ramifications.

Engemann began by warning that this is "a very emotional and involving subject." Almost all countries have a statute of limitations law which states that after a certain length of time, a person can no longer be prosecuted for a criminal activity. In Canada, only one crime has no such statute - murder. In Germany however, murder does have one, and has had for over a hundred years.

Regarding war criminals, the government set 1950 as the commencement for the twenty year limitations period. In 1969 that period was extended for another ten years. When it expires on December 31, 1979, Nazi war criminals will not be able to be brought to trail any more. They will be free to re-enter society.

In view of the magnitude of the crimes involved, why didn't Germany abolish this law? Engemann explained it was because "we believed that thirty years was ample time to bring all the war crime cases to court. In this way we were naive."

As it turned out, a great deal of evidence was, and is, being withheld by the communist governments of eastern Europe. "This is a political



move to embarrass our government by revealing the existence of war criminals after the limitations period has run out," says Engemann. Nevertheless, new evidence is continually being uncovered, implicating people in hitherto unheard of death marches, camps and crimes of lesser degree. Engemann readily admits "it cannot be denied that many areas of Nazi atrocity are still only in the preliminary stages of investigation."

While the government's optimism about catching all the criminals before the end of this year has proven unwarranted, those that remain at liberty are mostly "small fry - subordinates not directly responsible for the institution of the concentration camp system. They committed their crimes under orders from above or simply due to the

instinct of criminality the Nazi leadership fostered."

Nonetheless, he pointed out, they are just as guilty. German law with regard to them is "much more stringent than most countries. A public prosecutor has the responsibility to pursue suspected war criminals on the basis of the barest minimum of evidence. He has almost no leeway to avoid such a case."

Engemann, who has presided over several hundred of those cases himself, said, "I personally abhor and abominate the crimes that were committed and feel sometimes they should be punished beyond the extent of the law."

He went on to explain, how little can actually be done. "First of all, it is now almost thirty-five years after the crimes took place. Memories fade. Many of the wit-

nesses were too afraid at the time to look at the suspect's face, remembering only the uniform with its skull and cross-bones. A great many with potentially vital information refuse to testify because they do not wish to suffer the resurrection of the memory of those camps, or the possible humiliation of a public court case."

According to him, of those that do, "nineteen out of twenty never actually witnessed the suspect performing the crime. I'm often overcome with a mixture of horror and shame, feeling, this man cannot possibly escape without punishment. Yet he does, because there is simply not enough acceptable evidence to get a conviction."

Thus it is that, since the end of the war, only six thousand war criminals have actually been sentenced out of more than eighty-two thousand that were given trial. Engemann can't even begin to estimate how many thousands are still at large, but he does know that the chances of ever finding, let alone convicting them, get slimmer and slimmer as time passes, and that, even when successful, the sentences handed down are usually so paltry as to be totally out of proportion to the enormity of the crime.

When the limitations period expires, it does not mean all former Nazis will go scot-free. That period is set back to zero if there is any jurisdictional action against the suspect. That means the four thousand cases now in the courts still have another thirty years to worry about.

Other suspects, who were accused and acquitted earlier, must date their thirty year period from then, not 1950. Should new evidence come up in that time, which is constantly happening, they could be re-tried. The statute also does not apply to well known, identified and wanted criminals like Dr. Joseph Mengele or Martin Bormann. Thus, for a large percent of all suspected war criminals, 1980 will be no different from any other year.

One of the biggest concerns is that those Nazis that do become free then will be able to come out in the open, boasting of their deeds with impunity or even asserting themselves politically. Engemann agrees, but he believes they would find little support.

Although "there is a great deal of covert anti-semitism here in North America, Neo-nazism is not very strong. Neither is it in Germany. They are very small in number but so sensational that every little thing they say or do gets publicity."

Genocide is now written into the German law code as a crime without a statute of limitations, although murder retains one. Some have suggested applying this change to the Nazis retroactively, but Engemann says that's impossible.

"Retroactive law is no law at all because it is illegal. It would be like fining someone for not having had his seatbelt done up in 1962. At the time it was not compulsory." Nazi criminals will continue to be tried for murder since there was no law against genocide until after they had committed it.

All the same, he is not fully convinced that the arguments in favour of letting the limitations period expire are valid. He expressed sympathy with those who are demanding that criminals of such magnitude should not be allowed to escape punishment by way of what they perceive as a legal technicality.

Still, he cannot support them. The law, to him, is a sacred institution that can't be tampered with in such a manner. "For a government to do so is to set upon the very path it seeks to eliminate. No matter how sickening their crimes are to us, Nazis are still citizens with the right to the impartial protection of the law."

Although Engemann agrees that letting the Nazis come out of hiding could be a dangerous move, to invoke special laws against them would be even more so. "Remember, we are not trying systems. We are trying individuals."

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## Kain & Augustyn dance at Burton

By Agnes Kruchio  
 The company Entre Six may have increased in number to eight since it was founded over four years ago, but it still retains the charm, the vivacity and sparkle that has been its trademark from the beginning. Last week at Burton Auditorium

its occasional flash was not unexpectedly eclipsed by the two stars to whom the company hitched its wagon on this tour, Karen Kain and Frank Augustyn.

There was little doubt who the audience which piled up to the rafters had come to see.



Randy Bregman

Tuesday's performance was the last of a series on a 17-day tour that has taken Entre Six as far out as Chicoutimi, in Quebec and Oakville, Belleville and Collingwood in Ontario.

The programme was a rich menu of classical and modern ballet and offerings ranged from the simple child-like skits that featured jungle animal characters to the elaborateness of a classical grand pas de deux that tested the mettle of both soloists.

Excerpts (presented by the entire company) was a series of vignettes which used animal personalities to spoof human characteristics.

Company founder and choreographer Lawrence Gradus, a dancer who has appeared with the Royal Winnipeg Ballet and Les Grands Ballets Canadiens among others, here had ample opportunity to show his sense of humour and insights into human nature, as well as the techniques of pantomime.

In *Nonetto*, a piece set to music by Bohuslav Martinu that contrasted two pas de deux, Gradus attempted a fairly intricate, at times profound and complicated piece of choreography.

The darker, more earthy couple, Kain and Augustyn demonstrated that they can handle the "floor-style" demands of such a piece that so sharply differ from the accustomed grace of classical ballet.

Excursions was a series of entries that utilized the talents of a former Olympic gymnast, Michel Jodoin,



Randy Bregman

whose spectacular acrobatics threatened to overshadow even the leaps of Frank Augustyn, who is also a former gymnast. Several entries in *Excursions* which Jodoin danced with Stephane Pasco were a masterwork of coordination, unexpected moves and sudden breaks of warmth and good-natured humour.

The lightness of the grand pas de deux, *Flowers Festival in Genzano* by Bournonville, was a measure of the skill of Karen Kain and Frank Augustyn, who flitted through the piece with nary a touch on the ground. Augustyn's superb jumps brought murmurs of awe from the audience.

Perhaps the least fortunate piece was the first and most formal dance

piece choreographed by Lawrence Gradus, appropriately entitled *Dances Formal and Light-Hearted*. In a stylized version of 18th century hunting costume, the piece was a series of variations structured on the theme of a hunting party and set to the music of Brahms. But the riding crops (which at times looked suspiciously like cheerleader's batons) and the slightly chaotic conditions on stage brought to mind burlesque ballet rather than serious dance.

The disorganization at the start could have been due to travel fatigue and unfamiliarity with Burton's stage. After the first number of the energy and spirit on stage rose throughout the performance to a crescendo at the very end.

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