

# AMERICAN OPINION

*In this number*

## THE BANG-JENSEN TRAGEDY

A Review

Based On The Official Records

*by*

Julius Epstein

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A Review

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Julius Epstein

May 19, 1960

Dear Reader:

We had expected to receive Mr. Epstein's manuscript on the Bang-Jensen case the latter part of March, or by early in April at the latest. We actually received it yesterday.

As a consequence this issue is very late. It will be followed almost immediately by the June number, which may in fact be mailed to you in the same envelope. But we are glad that we waited — even though impatiently — nevertheless. We believe you will be too.

For one reason, Mr. Epstein is a professional and an expert at digging into the more nefarious instances of Communist and pro-Communist criminal activities — as proved by his part in exposing the truth about the Katyn Forest Massacre, and in exposing the comparatively little that has yet been revealed about the even more infamous forced repatriation, of refugees from Communism, after World War II. Obtaining access to many documents never before published, nor even quoted in print, he has presented the known facts of the Bang-Jensen case in such manner as to reveal all the elements of a powerful tragedy by Euripides, or Racine.

But the Bang-Jensen affair, as a part, is greater than its whole. For this study by Epstein becomes a case history of all the sophistry, subversive practices, utter lack of humane or civilized standards, and general rottenness which permeate the United Nations through and through. It shows that, despite the large number of noble and idealistic men and women, dedicated to the theoretical principles of the United Nations, who

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# THE BANG-JENSEN TRAGEDY

A Review Based On The Official Records

by

JULIUS EPSTEIN

DURING THE FIFTEEN YEARS of the United Nations' existence, nothing has shed more light on the organization's character than the case of Paul Bang-Jensen, the Danish Deputy Secretary of the United Nations Special Committee on the Problem of Hungary.

The case, still wrapped in deep mystery, will continue to plague the United Nations' Secretary General, Dag Hammarskjöld, as well as its Secretariat, for years to come. This will be due to the fact that the United Nations — whether undeservedly or not — had gained tremendous prestige among peoples of the world who believed that it can do no wrong. But the same people who held such opinion have been shocked no end by the destruction of a man whose "crime" was: (1) having promised Hungarian witnesses, to Khrushchev's and Kadar's atrocities in Hungary, that he would keep their names a secret from Mr. Hammarskjöld and the rest of the Secretariat, in order to protect their friends and relatives still living in Hungary; and (2), having faithfully kept his promise.

It is far too early to tell the whole story of this sordid affair. Too many things are still unknown, too many documents are still not available, and too many people, within and without the United Nations, are afraid to tell

the truth about what they must know about the case.

One of the mysteries still not solved (there is little probability that it ever will be solved) concerns the question: Did Paul Bang-Jensen commit suicide or was he murdered? This question cannot be answered until we know where he was and what he did during the thirty to forty-eight hours before his body was found in a park, near his home at Lake Success, L.I., N.Y. Why did he not contact his wife during those hours? Was he kidnapped, put under some drug like scopolamine, or perhaps hypnosis? Was he forced under such circumstances to write the suicide note, later found in his pocket. These possibilities cannot be dismissed lightly.

There is at least one strong indication that the death of Paul Bang-Jensen was not brought about by suicide. In a memorandum of November 30, 1957, addressed to his friends and his wife, Bang-Jensen had given them explicit assurances:

"My wife, who has been a calm, courageous and clear-minded advisor and who, like me, first was greatly amused about the call from Dr. Sze (the chief of the U.N. Health Clinic who had been asked by the Secretariat to give his opinion on Bang-Jensen's state of mind, and who gave him a clean bill

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of health), has later begun to worry about this story which she connects with certain other facts. She fears, now that it is clear that I will not retreat, that the circles outside the Secretariat, *ultimately* (emphasis his) responsible for the sabotage, might have decided that it is necessary to risk having me disappear out the window, or similarly, in 'a fit of depression.'

"I do not think so myself, because I believe that those circles will realize that I have taken safeguards to assure that the proper authorities would receive the documentary proof about what has been going on in the Secretariat.

"My wife has, nevertheless, insisted that I should inform a few of my friends, that under no circumstances would I commit suicide. I have done so, though reluctantly, since I fear my friends might think I am getting a little dramatic.

"My wife has also asked me to write this memorandum to her, and to make it clear also in this, that under no circumstances whatsoever would I ever commit suicide. This would be completely contrary to my whole nature and to my religious convictions. If any note was found to the opposite effect in my handwriting, it would be a fake." Signed "Povle Bang-Jensen, Lake Success, 30 November 1957."

Under normal conditions, we should assume that Paul Bang-Jensen, having solemnly excluded the possibility of suicide, would have referred to this memorandum in his final suicide note if he ever felt himself forced to change his mind. Because he must have known very well that his friends would immediately suspect foul play if his body was found with a suicide note, penned in his own handwriting. They would

rightly suspect foul play, because he had so carefully warned them against such an occurrence. It must be further assumed that he would have included in his suicide note a reference to this earlier memorandum, in order to protect anybody against the suspicion of having murdered him, a suspicion necessarily created by that memorandum. Bang-Jensen did nothing of the sort. Doubts, therefore, are not unjustified. Some of Bang-Jensen's friends have advanced the theory that he was so upset in his last hours that he simply forgot his memorandum of November 30, 1957. On the other hand, he was not too upset to write a suicide note, which was found in his pocket. There is not the slightest doubt about the identity of the handwriting.

The first Police protocol spoke of "apparent suicide." It is signed by Lt. Paul E. Girardin, desk officer, Grand Central Parkway Precinct. It is addressed to "Medical Examiner, Queens County." The Medical Examiner was Dr. Richard Grimes, who also performed the autopsy. The autopsy report, under the date of November 26, 1959, the day the body was found, says: "CAUSE OF DEATH: GUNSHOT WOUND OF THE HEAD; SUICIDAL."

Bang-Jensen's friends rightfully insist that as long as nothing is known about his last thirty to forty-eight hours, during which time he only spent about six dollars, the suicide thesis should not be accepted without a big question mark. Mrs. Bang-Jensen shares this opinion. It seems to be a reasonable contention, especially in view of the well known practices of Communist agents who have more than once staged quite natural looking suicides. And

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whether Bang-Jensen's death was technically suicide or murder, one thing is clear beyond the shadow of any reasonable doubt: He died as a result of his solemn pledge given to the Hungarian witnesses not to make known their identities, not even to Mr. Hammarskjöld, and as the result of his relentless fight to stop what he considered to be sabotage against the Special Committee on the Problem of Hungary. It was this pledge which he was willing to honor under all circumstances, and his increasing but hopeless fight against Communist infiltration into the United Nations, which led to his dismissal and ultimately to his death. Whether or not that death was actually precipitated by his known intention of disclosing the names of Communist agents in the American personnel of the United Nations staff is not our province to discuss, because we are dealing here with what can be established from the official records.

While many important facts and details of the Bang-Jensen case are still unknown, and some of them probably will be unknown forever, much can be revealed. In any case, enough to form a picture of the most important developments, enough to put the blame where it belongs. I am grateful for this opportunity to do this and I have to thank for this opportunity several persons within and without the United Nations Secretariat who allowed me to see and to study certain documents, not yet available to the public.

### II

#### THE DRAFT REPORT

ON JANUARY 10, 1957, the General Assembly established the so-called Special Committee on the Problem of Hun-

gary. The officially stated purpose of the Committee was to provide the General Assembly of the United Nations with the "fullest and best available information regarding the situation created by the intervention of the Union of Soviet Socialist Republics, through its use of armed force and other means, in the internal affairs of Hungary as well as regarding developments relating to the recommendations of the Assembly on this subject." It was composed of the representatives of Australia, Ceylon, Denmark, Tunisia, and Uruguay. The Governments of these states appointed as their representatives the following diplomats:

Australia: Mr. K. C. O. Shann  
Ceylon: Mr. R. S. S. Gunewardene  
Denmark: Mr. Alsing Andersen  
Tunisia: Mr. Mongi Slim  
Uruguay: Professor Enrique Rodriguez Fabregat.

The Secretary General appointed the staff: Mr. W. M. Jordan, principal Secretary of the Special Committee; and Mr. Paul Bang-Jensen, Deputy Secretary. The first session was held in New York on January 17, 1957. The Committee elected as its Chairman Mr. Alsing Andersen, and Mr. K. C. O. Shann as Rapporteur.

The Special Committee on Hungary then began immediately with its work. Thirty-five witnesses were heard at U.N. Headquarters in New York. The Committee then proceeded to Europe. From March 11 to April 16, 1957, the Committee held hearings, first at the European Office of the United Nations in Geneva and later in Rome, Vienna, London, and again in Geneva. One hundred and eleven witnesses were heard altogether: 35 in New York, 21 in Geneva, 16 in Rome, 30 in Vienna and 9 in London.

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It was during the hearings in Europe that Bang-Jensen became aware of certain strange practices which he described as "sabotage." There were prospective witnesses to be heard by the Committee who, however, never were heard. Why?

Bang-Jensen did not keep quiet. He complained about this and other facts — for instance about the use of a Soviet citizen and a Yugoslav as guards — to the staff of the Committee as well as to its members. This, in turn, created almost from the beginning an out-spoken animosity against him. Moreover, he frequently violated the most sacred rule of bureaucracy by going over the head of his immediate superior, the British Secretary of the Committee, Mr. Jordan. From this moment on, the battle was joined.

On June 4, 1957, the Special Committee on Hungary adopted its draft report. On that day, Paul Bang-Jensen wrote a confidential memorandum to Mr. T. G. Narayanan, the U.N. officer in charge of the Department of Political and Security Council Affairs, in which he openly complained about the many errors in the draft which the Committee's Secretary, Mr. Jordan, had refused to bring to the Rapporteur's attention. This amounted to an official declaration of war against Mr. Jordan, the Secretary of the Committee. The memorandum follows:

"The members of the Committee and its Rapporteur, Ambassador Shann, are unaware that the report, as adopted, contains several dozens of errors of fact, which the Secretary of the Committee, in spite of my insistence, has refused to call to the Rapporteur's attention. With regards to questions of form and presentation, I have felt that I, as Deputy Secretary, should leave these and other

questions of judgement to Mr. Jordan and the Rapporteur. I have felt, however, that it was my duty to call indisputable errors of fact to Mr. Jordan's attention, and that it, in my opinion, was his duty, as I have repeatedly stated to him, to let me show him the record, if there is any doubt in his mind, and then call the errors to the Rapporteur's attention."

There can be no doubt that Bang-Jensen was only doing his duty. The underlying reason for his endeavors to call the Committee's attention to those errors of fact in the Draft Report was his fear that if printed in the final report, they "would shake the general confidence in the reliability of the report and in some cases embarrass the members of the Committee."

This quote from one of Bang-Jensen's earlier memoranda shows how much he was concerned with the reputation of the United Nations and its Special Committee on the Problem of Hungary. As we shall repeatedly see, again and again he wanted to protect the Secretary General, the Secretariat, and the members of the Special Committee, against any later reproaches of having been neglectful in the foremost duty of accuracy in an official U.N. Report of tremendous importance. Being denied the right to bring errors of fact to the attention of the Committee must have caused a deep worry in his mind. That he was denied this right cannot be doubted. He himself, in that same memorandum of June 4, 1957 to Mr. Narayanan, stated this fact as follows: "The Secretary (Mr. Jordan) repeatedly has refused to call errors of fact, well known to him, to the Rapporteur's attention and he has ordered me not to speak to the Chairman and the Rapporteur

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about the report, even in his presence."

This gag-rule, in particular, appeared so repulsive to Bang-Jensen as to disturb him very much. Two days after he had written his memorandum to Mr. Narayanan just quoted, he wrote another one to Mr. Hammarskjöld, marked "For the Eyes of the Secretary-General Only!" In it, setting aside any protocol against going over the heads of his immediate superiors in the Committee as well as in the Secretariat, Bang-Jensen carried his complaints of deliberate sabotage to the highest forum in the United Nations, the Secretary General himself. He wanted to be sure that the Secretary General knew all about the sabotage going on in the Committee, and about the factual errors in the Draft Report. He also wanted to protect himself against any future reproach from Mr. Hammarskjöld's side in the well known vein: "Why didn't you tell me?" After explaining verbally the nature of the sabotage to Mr. Andrew Cordier, Executive Assistant to the Secretary General, Bang-Jensen wrote to Mr. Hammarskjöld as follows:

"Mr. Cordier will no doubt have reported to you our conversation this morning and explained that the situation is considerably more serious than I found it wise to spell out in my memorandum. It is a methodical attempt to suppress certain essential facts, and to insert erroneous facts and contradictions in the report, particularly in the key chapter. I offered to give Mr. Cordier all the evidence, if desired about these efforts which are both consistent and flagrant. All errors and omissions, all point the same way, except one small one which might be a little unfair to Mr. Kadar. (I was, however, told this evening that that one is being cor-

rected.) That accumulation of errors of fact and contradictions are bound to undermine the authority of the report.

"The situation, indeed, is very delicate. Sabotage of the Committee of various kinds has gone on from the very beginning. For instance, a number of efforts were made to prevent the Committee from hearing certain witnesses. At times these efforts were extremely clumsy, and I know that in one case several officers of the staff began to realize what was taking place. Some of the many people working on the report know. There is, therefore, reason to fear when errors, contradictions, and omissions are pointed out after the report is published, it will soon be known around the building and to the press that these errors of fact were pointed out in advance, but that it, strangely enough, in spite of all efforts, was impossible to make anybody spend the few minutes it would take to look at the record and find out whether it was a tired man's wild assertions or they were actually errors of fact. This will seem the stranger, I am afraid, since the report, factual as it is, is politically explosive. Outsiders would undoubtedly think that the utmost care would be taken to assure that all the facts are correct."

By writing this to Mr. Hammarskjöld, Bang-Jensen knew that he was doing something that must appear silly or quixotic to many of his colleagues since, as he wrote, "we are rarely thankful, although we should be, to the person who has courage enough to bring unpleasant information to our attention." Nevertheless, he did not hold back any of the "unpleasant information." Completely without regard for the fact that his behavior must make

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himself immensely unpopular with the members of the Special Committee on Hungary as well as with the Secretary General, Bang-Jensen did not shrink from what he considered to be his duty. He even went so far in his memorandum "For the Eyes of the Secretary-General Only!" as to tell Mr. Hammar-skjoeld that Mr. Jordan had repeatedly said "that he (Jordan) was in fact acting in accordance with your (Hammar-skjoeld's) instructions and has intimated that it would, therefore, be rather foolish of me to take the matter up with you." And he ended his memorandum by entreating Mr. Hammar-skjoeld to allow him to prevent the authors and editors of the Report on Hungary from becoming the victims of a rather subtly carried out sabotage. He wrote further:

"I wish to assure you that I am at your disposal beyond, but not contrary to, my duties as an officer of the United Nations to straighten out everything. My only condition, as I have several times told Mr. Jordan, is honesty. I have seen enough to know that people can do terrible things and still have other admirable or attractive sides to their character. I am not excited, I am not angry, not indignant, I have no animus against anybody. I only feel sorry for those — whoever they are — who, perhaps by some mistake, have placed themselves in a position from which they find it difficult to retrieve themselves."

Hardly can it be said that this memorandum shows any sign of hysteria. There is no maliciousness in it, nor the attitude of "I'll get them" or of any "revenge." It is a rational document which simply claims that certain acts of sabotage were carried out and that

many errors of fact in the Draft Report should be corrected. Why it was not possible to have them corrected remains a secret to this very day.

### III

#### ENTER RALPH BUNCHE

ON JUNE 18, 1957, Bang-Jensen was departing from New York by boat on home leave. One day before he left, he reminded Mr. Hammar-skjoeld again of his communications. He expressed surprise that he had not received any answer at all to his memoranda of the 4th, 6th and 11th June. This time Mr. Hammar-skjoeld replied. In a letter, already addressed to Bang-Jensen's Danish address, he wrote: "I shall be glad to discuss all matters with you which you regard as relevant upon your return from home leave."

This turned out to be nothing but an empty phrase. Bang-Jensen returned to New York on August 16, 1957. He waited for an invitation from the Secretary General to explain to him personally the alleged acts of sabotage and the "several dozens" of factual errors in the Draft Report. Mr. Hammar-skjoeld did not invite him! Bang-Jensen wrote another "Strictly Confidential" memorandum to Hammar-skjoeld on August 27, 1957, in which he said: "I was surprised that, after receiving my memoranda of 4, 6, 11 and 17 June regarding sabotage of the efforts of the Committee on Hungary, you did not ask me to postpone my home leave, and that you did not even take steps to see me at least once before I left to find out whether the evidence in my possession actually was as conclusive as I insisted."

On August 26, 1957, Bang-Jensen was informed — orally! — that Mr. Hammar-skjoeld and Mr. Cordier "had agreed

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that he was no longer to be Deputy Secretary of the Committee on Hungary." Bang-Jensen saw in this sudden and only orally announced demotion nothing but an official green light, given to those who, in his opinion, had engaged in sabotage of the U.N. Special Committee on Hungary. To detach Bang-Jensen completely from the work of the Committee, he even was strictly forbidden to see the final Draft Report. He was also *forbidden to tell anyone* that he was no longer the Deputy Secretary of the Committee on Hungary, even the Danish U.N. delegation whose members were to be his dinner guests the very next day. This strange and probably unprecedented injunction imposed upon Bang-Jensen, an international civil servant, was designed to make an imposter and deliberate liar out of him. What would people — for instance the members of the Danish U.N. delegation — think of him if he left them in the belief that he still was the Deputy Secretary of the Special Committee on Hungary — as he was ordered to do — when they later learned that he had been relieved long ago? There are few features in the whole Bang-Jensen case which so clearly show the contempt for truth and for the dignity of an individual on the part of the Secretariat.

Instead of seeing Mr. Bang-Jensen personally and discussing, as promised, a matter of such magnitude as the alleged acts of sabotage and the errors of fact in the Draft Report, Mr. Hammarskjöld decided to let — of all people — Ralph Bunche interrogate Mr. Bang-Jensen. To evaluate the meaning of Ralph Bunche's appointment to deal with the Bang-Jensen case and to recognize its truly surprising scurrility, we

have to look for a few moments at Mr. Bunche's own political record.

For many years, Dr. Ralph Bunche was closely affiliated with Communist activities and organizations. This certainly should not reflect upon him today, provided that he had ever admitted the fact. But there is no statement of Ralph Bunche in existence — at least to the best of my knowledge — in which he admitted, repented, or withdrew a single word of his many declarations and writings along the Communist Party line. This distinguishes his case from those who have done exactly that, as for instance, Louis Budenz, Whittaker Chambers, Ben Mandel, Ben Gitlow and many others who are today among the outstanding American fighters against Communism. Since Dr. Bunche never cared to explain his past Communist activities, grave doubts about his present loyalties are justified.

We are grateful to Mr. Archibald Roosevelt, the late President Theodore Roosevelt's son, for a splendidly documented paper on Ralph Bunche. Mr. Roosevelt prepared this paper after he had suffered from a real shock in 1954, when the Theodore Roosevelt Memorial Association awarded the Theodore Roosevelt Medal to Dr. Ralph Bunche "for distinguished service" in international affairs. The following facts and quotations taken from Mr. Roosevelt's paper will shed the appropriate light on Mr. Bunche's record:

Ralph Bunche's name appeared on the masthead of the well known Communist Magazine, *Science and Society*, right from its beginning in 1935, until 1940. He was not listed as a contributor but as "contributing editor." Besides Mr. Bunche, the following members of the Editorial Board were listed: J. D.

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Bernal, well known British Communist of Cambridge University; Paul Langevin, member of the French Communist Party, now deceased; Joseph Needham, the British Professor who served as the British protagonist of the Soviet charge against the United States of having waged germ warfare in Korea; W. P. Parry, director of the Communist Progressive Labor School of Boston, a man who had used the fifth amendment before a Congressional Committee when asked whether he had ever been a member of the Communist Party; and Vladimir D. Kazakevich, who was arrested for deportation after Elizabeth Bentley — in a sworn statement — had testified that Kazakevich had given secret information to Jacob Golos, the Soviet spy master. These, then, were the editorial colleagues of Dr. Bunche for at least five years!

It is true that Ralph Bunche defected from the Stalinist cause in 1939, after Stalin had concluded his alliance with Hitler. During that period, many Jews and Negro members of the Communist Party did the same because they found it too hard to swallow the Stalin-Hitler line. (They certainly did not defect because of the Communist program or because of any of Stalin's innumerable crimes, his slave labor camps, his broken treaties, his individual murders or anything of that sort!) In the Gunnar Myrdal Carnegie studies, in 1940, Bunche even criticized the Communist party, stressing those Communist policies which resulted from the Stalin-Hitler Pact. But within a few weeks after Hitler's invasion of the Soviet Union, the criticism, based on the Stalin-Hitler Pact and by no means on Stalin's communist policies, was forgotten.

Mr. Bunche now accepted the recom-

mendation for a job with the O.S.S. (Office of Strategic Services) by Professor Charles McIlwain of Harvard, a well known Communist fronter. (See Appendix IX, House Un-American Activities Committee Report, March 1944, Page 380.) Rightfully, Mr. Archibald Roosevelt states in his paper: "If Bunche had continued his separation from the communist movement it is hard to see why a person with communist front connections would interest himself to suggest Bunche for the position. Secondly there is the fact that the O.S.S. was a highly infiltrated government agency, infiltrated by communists and their followers."

During the early years of Bunche's association with the Communists, he contributed innumerable articles and book reviews to *Science and Society*, as well as to many other Communist or pro-Communist organs. Also during that time, Mr. Bunche became a contributor to the magazine, *Race*, which was organized and completely controlled by well-known Communist Party members. It proclaimed openly in its first issue that its object was "to plow up our institutions to their very roots and substitute a socialist order for the present capitalist order."

This then was the man whom Dr. Hammarškoeld charged with interrogating Paul Bang-Jensen, an ardent anti-Communist liberal who believed in the truly democratic way of life and in the free enterprise system. It is no wonder that Bang-Jensen had no chance to convince Mr. Bunche of the right of his cause. The cards were all too obviously stacked against him.

The remarkable colloquy between Bunche and Bang-Jensen took place on August 28, 1957. On that day, Ralph

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Bunche greeted Bang-Jensen with the words: "You are not coming with a halo around your head; we know enough about you!" And then, it went on as follows.

Ralph Bunche: "Do I understand you correctly to the effect that one of your main allegations is that both the Chairman and the Rapporteur of the Special Committee on the Problem of Hungary have in some ways and by someone been victimized with regard to many aspects of the Report? You will, of course, put this in your own terms. Am I also correct in the understanding that you stand by the statement made, at least twice in your memoranda, that the errors of fact you alleged, if corrected, would in fact support the conclusions of the report?"

Bang-Jensen: "Yes. The Chairman and the Rapporteur have in fact, as I thought I clearly pointed out in my memoranda, been deceived with regard to the content and accuracy of the Report. It is also correct that the errors, if corrected, would have further supported the conclusions of the Report. However, I thought it also was clear from my memoranda that the danger of the errors of fact was that they could make the Report ridiculous or that they could give ammunition for arguing against the Report."

By now, the situation was already very hot. All kinds of rumors were spread throughout the U. N. Secretariat and among the Delegates. Bang-Jensen was described as "neurotic," an "incessant trouble maker," and even as outright "mentally sick." This deliberate campaign, whose main originator undoubtedly was Andrew Cordier, aimed at the complete discrediting of an honest and even immensely efficient interna-

tional civil servant—as his many years in the service of the Danish Government as well as of the United Nations had proved. Bang-Jensen did not pay any attention to these rumors. He remained unruffled by them and continued in an admirable way in his fight, or as the psychoanalytically minded in the Secretariat preferred to say, in his "self-destruction." In the end it turned out to be self-destruction, as the fight of every martyr in history has terminated in self-destruction. They all—including Bang-Jensen—could have saved their lives if they had only shut up. But this was exactly what they did not want to do. That would have appeared to Bang-Jensen as abandonment of his duty as a faithful servant of the United Nations. To illustrate the point, I quote from another memorandum of his to Mr. Hammarskjöld. Its date shows the 9th of September, 1957 and it reads:

"I have unfortunately received what appears to be conclusive proof of another serious act of sabotage by the Secretariat. In this case it will be possible to ascertain the correctness of the evidence in less than five minutes.

"Since I have been threatened with disciplinary action and dismissal if I 'continued'—by which I understood, continued to bring acts of sabotage to your attention—I shall in the circumstances take no steps until you indicate that you wish to be informed.

"It is my duty to add that it is apparently also being maintained in the instance that the sabotage is carried out on your instructions."

The Secretary General did not reply to this alarming memorandum. Nor did he instruct Bang-Jensen to "continue" to bring acts of sabotage to his attention. Instead of inviting Bang-Jensen to sit

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down with him and to give a report on all the acts of sabotage against the Special Committee on Hungary and a complete list of all the errors of fact contained in the final Draft Report, Mr. Hammarskjöld asked again—of all people—Mr. Bunche to find out what it was all about.

Mr. Bunche, therefore, wrote to Bang-Jensen on September 17, 1957. He asked him "to list and describe the specific acts of 'sabotage' alleged, to identify precisely in each instance the person or persons alleged to be responsible for the act, and to indicate the actual evidence which in your view can be brought to bear in support of your allegations."

To this, Bang-Jensen answered immediately. However, he took exception to Mr. Bunche's remark "you agree to undertake to reduce to specific terms the general allegations of 'sabotage' that you have made." He also took exception to the implied charge that he had made "loose" charges, "neither specifying the act of sabotage, nor identifying any of those involved, nor giving any indication of the evidence."

Bang-Jensen reminded Bunche of the "unpleasant" conversation of August 28, 1957, when Bunche had greeted Bang-Jensen with the words: "You are not coming with a halo around your head; we know enough about you!" He also reminded Mr. Bunche that he (Bunche) had explicitly refused to look at the evidence he had been offered, with the rather sarcastic remark: "It would be ridiculous to spend even five minutes to look at it." How could Bang-Jensen trust a man for whom it was "ridiculous" to look at the offered evidence on August 28, and who now, less than three weeks later, pretends to have the desire to look at the

very same evidence? Could he believe in the seriousness of Mr. Bunche? He obviously did not, and he reminded Mr. Bunche that he had already vainly tried to acquaint the Under Secretary with explicit cases of sabotage, for instance with the so-called Maletier case: On September 9, 1957, Bang-Jensen had informed Bunche about a cable to the Special Committee on Hungary regarding General Maletier's bodyguard, who was available as a probably very important witness. This cable had never been communicated to the Chairman of the Committee, nor had it been circulated among its members. The witness, therefore, never got the opportunity to testify before the Hungary Committee.

Among the documents this writer has had the opportunity to scan, is a so-called "Note on Informal Talks on 19 September (1957) with de Herdevarym, Duckworth-Baker and Schreiber," three members of the Secretariat of the Special Committee on Hungary. The note is signed by Mr. Bunche and maintains that each of the three, "in his own words" corroborated the following:

1. "Unqualified denial in response to my question that there has been at any time, in any fashion or by any one, sabotage of the work of the Committee.

2. "Mr. Bang-Jensen suffers from an obsession about sabotage and Jordan's connection with it.

3. "Mr. Bang-Jensen has been overwhelmed by the work of the Committee and on occasion has given evidence of hysteria."

To this, Mr. Bunche added the following two sentences: "These talks have strongly confirmed my opinion that Mr. Bang-Jensen is mentally ill. I am not at all sure that he is very far from a state of mind which could lead to physi-

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cal violence, either to himself or to others."

In evaluation of this "Note on Informal Talks" it must be recognized that it would, if presented as evidence, be thrown out of any American court. How can three subaltern secretaries state that "there was no sabotage" when all they can reasonably state is the fact that "there was no sabotage to their knowledge?" It is, of course, highly unlikely that they would have known anything about sabotage. Any decision by the Secretary (Mr. Jordan) or the Rapporteur (Ambassador Shann) not to present certain material or prospective witnesses—acts which could, under certain circumstances, amount to sabotage—could not be known to three secretaries down the ladder. The other allegation, therefore, that Bang-Jensen "suffers from an obsession about sabotage and Jordan's connection with it" is nothing but an unwarranted inference from an unfounded premise. The third allegation, about Bang-Jensen's being "overwhelmed by the work," and about the possible "evidence of hysteria," could have been true, but was neither factually supported nor relevant.

The astonishing thing is not the fact that the three secretaries told Mr. Bunche this story—they did it probably completely *bona fide*—but that he, a trained lawyer himself, swallowed it, hook line and sinker, without any analytical afterthought. It is hard to assume that Mr. Bunche really ever believed in the three secretaries' "evidence" against Bang-Jensen. More probable is that he was well aware of the worthlessness of such "evidence," but that he had decided to use it against a man who was a disturbing observer and critic of possibly sinister goings on in the Commit-

tee on Hungary—and whose political views, as we have already seen, were strictly opposed to those of Mr. Bunche.

### IV

#### SUSPENSION

ON DECEMBER 9, 1957, the Secretariat released a "Note to Correspondents" that Mr. Bang-Jensen had been suspended from duty, "pending further investigation as a result of his non-compliance with instructions from his superiors. In accordance with established practice, he was instructed at the conclusion of his duties as a member of the Secretariat staff assigned to the Special Committee on the Problem of Hungary, to turn over to the Secretariat for safe custody under seal, official documents in his possession relating to the work of the Committee. The Secretary General has appointed the following to make a review of Mr. Bang-Jensen's conduct relating to his association with the Special Committee on Hungary: Mr. Ernest A. Gross, Chairman; Mr. J. A. C. Robertson and Mr. Stavropoulos. They will report to the Secretary General upon the completion of their inquiry."

When the Secretariat released the news of Bang-Jensen's suspension, five days had already passed since that suspension. How his separation from the United Nations had been brought about is a most shocking story by itself; a story which bespeaks better than anything else the character of the Secretariat's machine, the machine which was now set to destroy Paul Bang-Jensen.

On December 4, 1957, Bang-Jensen had suddenly been called to the office of Mr. Robertson, United Nations Director of Personnel. Mr. Robertson told Mr. Bang-Jensen on behalf of the Secretary General that he was suspended.

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Mr. Robertson refused to give Mr. Bang-Jensen any reason whatsoever for the suspension, and he emphasized that Mr. Bang-Jensen had no right whatsoever to know the reason for his suspension. Another remarkable point to be noted is that the suspension was made orally. Nothing was presented in writing.

Bang-Jensen reminded Mr. Robertson of the fact that a suspension, even when later lifted, might well cause serious damage to a person's reputation. He further stated that a suspension was only permissible according to the staff rules, as a "necessary precautionary measure" but not as a punishment or in order to exert any pressure. All this was, of course, of no avail. Mr. Robertson remained unwilling to explain why Mr. Bang-Jensen was suddenly suspended.

At the same time, Robertson instructed Bang-Jensen *not to give any explanation to his colleagues* in the Secretariat as to why he suddenly left his office, nor to tell anybody that he was suspended. This outrageous "instruction," violating any code of decency, included even Bang-Jensen's superiors with the sole exception of Dr. Dragoslav Protitch, Under Secretary for Political Affairs, who happened to be present at Mr. Robertson's conversation with Mr. Bang-Jensen.

Then Mr. Robertson further told Mr. Bang-Jensen that only the United Nations security guards would be informed, in order to be able to prevent Mr. Bang-Jensen's return to the United Nations building. Mr. Bang-Jensen was then ordered to leave the U. N. building like a thief caught in the act. Outside Mr. Robertson's office, two husky guards were waiting to take him out to the street. This shameful performance took place in the United Nations, of

course, by order of Mr. Hammarskjöld, one of the godfathers of the Universal Declaration of Human Rights of which Article 5 states: "No one shall be subjected to degrading treatment or punishment."

The unprecedented use of two guards, to take a high ranking staff member out of the United Nations building, was immediately noted by several of Bang-Jensen's colleagues. It caused tremendous indignation and became known to the press. Some of the delegates, especially those from Denmark, were shocked to learn of the incident. They could hardly believe that a staff member who might have erred in his judgment, but certainly for most honest reasons in the deep belief that he was best serving the United Nations, was treated like a common criminal. Bang-Jensen's ouster contributed more to discredit the United Nations, especially Mr. Hammarskjöld, than anything else which had happened in the preceding twelve years.

The Secretariat now wanted to forestall any bad publicity. In order to achieve this, the press was told that Mr. Bang-Jensen was a mental case, that he was "off his rocker," a "psychopathic troublemaker," a "McCarthyite," an "alcoholic," and that he had to leave the service "under a cloud." This was part of a premeditated campaign of character assassination, unprecedented even in the U. N.'s history. It reminds the unprejudiced observer of Hitler's and Stalin's practices of slander, especially of those campaigns of character assassination waged by Stalin at the time of the Moscow trials in the thirties. With one distinction however: Stalin's and Vishinski's character assassinations were obvious to many people, at least to those outside the Soviet Union. Only the

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Communists and their fellow travelers pretended to believe the hundreds of lies produced at the Moscow trials.

Thus, Bang-Jensen who had been told by Mr. Robertson that he had no right at all to learn the reasons for his sudden suspension, learned those "reasons" from the New York newspapers. Suddenly, the whole world had the right to know "why" Bang-Jensen had to leave the United Nations. But five days before that the accused had been denied the same right!

The assertion in the Press Release of December 9, 1957, that Bang-Jensen "was instructed at the conclusion of his duties (as Deputy Secretary of the U. N. Special Committee on the Problem of Hungary) to turn over to the Secretariat for safe custody under seal, official documents in his possession relating to the work of the Committee," is a misrepresentation of the truth; or in plain words, a blatant lie! Bang-Jensen's duty as Deputy Secretary of the Committee on Hungary had come to an end with the end of the activities of the Committee on June 7, 1957, the day it approved the final draft of its report. There had been no such instruction issued to Bang-Jensen at the conclusion of those duties. Not until October 9, 1957, more than four months later, had Bang-Jensen been asked to turn over "official documents" in his possession, especially the list of the Hungarian witnesses. Why did the Secretariat persistently misrepresent the facts? We do not know and probably never will know.

### V

#### THE GROSS COMMITTEE

AND NOW LET US TAKE A CLOSER LOOK at the Gross Committee, which is the core of the whole Bang-Jensen story. It

was this committee, appointed by Mr. Hammarskjöld, which furnished the "legal" basis for Bang-Jensen's dismissal, and it was the "strange" behavior of the Gross Committee which aroused worldwide indignation.

Even the selection of its three members must be considered as strange. Ernest A. Gross, a former Assistant Secretary of State in the U. S. Department of State, and later a Deputy Delegate of the American Mission to the United Nations, became the Chairman. Mr. Gross was also the personal lawyer of Mr. Hammarskjöld, who had paid him considerable sums of money. The two other members of the Gross Committee, Messrs. Stavropoulos and Philippe de Seynes (who right in the beginning had replaced Mr. Robertson because of the latter's going back to England) are interesting, inasmuch as their contracts of employment in the United Nations Secretariat were to expire the next April (1958), and both were eager to have them renewed. How could anyone expect them to contradict the then already well established and well known opinion of Mr. Hammarskjöld, who alone held the strings of the purse in his hands?

It must be clear that these facts alone would have prevented any judges from sitting in any American court in an analogous situation. They would have been considered as biased, and expected to disqualify themselves. But even if—by some twist of procedure—such biased judges would ever sit in such a case, the defendant would still have the right to appeal to higher state and federal courts, an opportunity which is completely lacking in the United Nations.

The Gross Committee was occupied with the Bang-Jensen case from Decem-

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ber 6, 1957 to February 7, 1958. It issued two interim reports and a final report. During these two months, Bang-Jensen was only heard twice, on December 13 and December 16, 1957. The day the Committee heard Mr. Bang-Jensen for the first time, Mr. Gross said, according to the official transcript: "As I understand it, this group has been asked by the Secretary General to discuss such matters with you as seem relevant to us. However, we are, of course, no formal group or a committee to the extent that we are bound, in any way, by the rules and regulations of the Secretariat." Mr. Gross's statement turned out to be a grave misrepresentation of the truth, to say the least. That the "group" was appointed by Mr. Hammarskjöld as an investigating committee, and nothing else, evolves from countless documents, beginning with the letter of appointment—and not ending with the first interim report of December 21, 1957. That document was issued on that day to the U.N. correspondents under the heading: "Interim Report of *Committee of Investigation* on the Bang-Jensen case." [*Our Italics.*]

The Gross Committee, though considering other points, was mainly concerned with Bang-Jensen's refusal to hand over the list of eighty-one witnesses, whom he had solemnly promised absolute anonymity in order to protect their friends and relatives in Hungary. But not until October 9, 1957 had Bang-Jensen been asked or instructed to give up that list. Since the Special Committee on Hungary had already finished its work early in June, 1957, the fact seems passing strange that during those intervening months neither Mr. Hammarskjöld nor anybody else in the Secretariat had asked Bang-Jensen to

surrender the list of witnesses—although everybody must have known that it was in his possession. The point is significant. When Mr. Hammarskjöld and his associates considered the list as so highly important—which it undoubtedly was—and when they were so sure that it had always been Bang-Jensen's duty to hand over that secret list, why had they not asked him to do so for more than four months? If they were right in their contention that this list belonged in a U.N. safe deposit vault under the direct control of the Secretary General, then it was the Secretary General as well as Messrs. Cordier, Bunche, and Dr. Protitch who had been derelict in their sworn duty—and another U.N. investigation with some other dismissals was in order. Why has none been undertaken? Why did Mr. Hammarskjöld never inquire of his direct subordinates how they could have forgotten for so long a time to ask Mr. Bang-Jensen to surrender so important a document? There are obviously two quite different sets of administrative justice prevailing in the United Nations. Bang-Jensen, considered by Mr. Hammarskjöld and the U.N. bureaucracy as insubordinate because he refused to surrender the list, was dismissed and died for his somewhat outmoded ideal that a man has to sustain his word of honor. But those members of the Secretariat whose duty it had been to see that secret documents did not remain in any official's private possession, and who had completely failed to carry out this duty, were not even reprimanded.

The Gross Committee released its first Interim Report on December 21, 1957, and its second one on January 15, 1958. Since these two reports plus the final one, with which we will deal later, are

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the basis of the whole tragedy, and since they show the "gross" miscarriage of U.N. justice in the case of Bang-Jensen, we need to look into these two reports, and to reproduce some of their more important passages. Right in the beginning, the Interim Report reads: "We have received and examined numerous documents pertaining to the matter and we have interviewed officials of the Secretariat concerning the procedure followed by the Secretariat of the Special Committee on Hungary and the maintenance of documents and archives."

While the authors of the Interim Report were at the time of its issuance supposedly not yet in a position to "make findings or submit recommendations," they deemed it nevertheless appropriate—by some strange contradiction in language and logic—to reach, already, the following "conclusion":

"1. *Record of the United Nations as a safe custodian of highly confidential documents.* During the twelve-year period of the life of the United Nations, documents of a highly classified character, relating to a number of missions and crises—which, if revealed, might have jeopardized the lives and well-being of individuals—have been kept in perfect safety without a single leak or abuse. The documents of the Special Committee are not unique in the life of the United Nations. Three or four other missions, as indicated above, have had documentation of a similar character and therefore it is wrong to conclude that this is an exceptional situation requiring exceptional measures.

"2. *All documents of any organ of the United Nations are the property of the United Nations.* The Secretariat is the custodian of United Nations docu-

ments and the Secretary General in particular maintains personal and official surveillance over highly classified documents of the type in question. Such documents are not available to any member of the Secretariat or to anyone else."

The statement that "during the twelve-year period of the life of the United Nations" no "single leak or abuse" has occurred is meaningless and absurd. The learned and experienced lawyer Ernest A. Gross should, at least, have followed the decorum of his profession and added the qualifying words "so far as we know." How could the members of the Gross Committee, whose chairman was not even a member of the Secretariat, know that "not a single leak or abuse" had occurred since the inception of the United Nations? Nobody can know this, and therefore nobody in his right senses can honestly state it.

Suppose one or more U.N. high officials had leaked, at different times during the last fifteen years, highly classified secrets. (We have reason to believe that such things have occurred, but for the strength of our argument it is not necessary that we know or believe this. We are just supposing.) Would the culprits have told Mr. Gross or Mr. Hammarskjöld about it? Certainly not. The characteristic feature of a successful leak as well as of successful espionage is, of course, the fact that nobody knows about it who shouldn't, and that those who do know keep silent. Every law student in his first term understands this because he learns at the beginning of his studies that there is no such thing as a negative burden of proof. Nobody can prove—not even Mr. Gross—that he has not stolen a gold watch during the

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last fifteen years. If he should be accused, he can only be acquitted on the ground of "lack of evidence."

However, Bang-Jensen had every good reason to believe that, in the case of this list, such a leak might well occur and might jeopardize the lives of friends and relatives of those witnesses who had rightly insisted on absolute anonymity—and who had specially included Mr. Hammarskjöld among those not to be told. The story goes back to 1953.

In that year, according to NEWSWEEK ("The Dead Dane: Untold Story," *Newsweek*, December 7, 1959) Paul Bang-Jensen was approached by a high-ranking member of the Soviet delegation. The Russian told him—again according to *Newsweek*, with which rests the responsibility for the accuracy of the story—that "an American employed by the United Nations in a high position was responsible for security lapses that led to U.S. intelligence falling into Soviet hands." Also "that he, the Russian wanted to take sanctuary in the United States and hoped for the same kind of protection that the Canadian Government had given Igor Gouzenko, the Soviet Embassy employee who defected in Ottawa."

The Soviet diplomat asked Bang-Jensen to pass this information to the proper American authorities, but he insisted, and rightfully, that nothing should ever be put in writing. "Bang-Jensen," so goes the *Newsweek* story, "duly reported the matter to an American friend serving with the U.S. delegation. The American, in turn duly reported to Washington."

Now we encounter an American dis-ease. Somewhere along the line the oral report was *put in writing*. It then filtered back to U. N. Headquarters and,

there, straight into the office of the very American high official who, according to the Soviet diplomat, had been leaking important and highly classified secrets to the Soviet delegation. (The name of this high official is well known to American authorities, but, for obvious reasons, cannot be revealed here.)

What happened? *Newsweek* reports that the Russian who had hoped to defect was promptly shipped back to the Soviet Union and has, of course, since disappeared. *Newsweek* adds: "And, according to Bang-Jensen's friends, the American is still at the U. N. (This man reportedly played a part in Bang-Jensen's dismissal which, rightly or wrongly, U. N. officials felt justified.)" We have no reason to doubt *Newsweek's* information, which surely was double-checked before it was released. Moreover, as this writer was assured on good authority, Mrs. Bang-Jensen has corroborated the *Newsweek* story. It will have to be checked again when Congress investigates Bang-Jensen's death and its surrounding circumstances.

Bang-Jensen must have felt instrumental in the destruction of the Soviet diplomat. This feeling obviously caused a deep depression in his mind and might well have been the basic reason for his insistence on absolute anonymity as to identities of the Hungarian witnesses. Bang-Jensen always maintained that he was fully authorized to grant such anonymity. We shall deal later with this question in more detail. But one fact which strongly supports Mr. Bang-Jensen's contention may be mentioned here. On February 8, 1957, Mr. Andrew Cordier, Executive Assistant to the Secretary General, wrote a memorandum to Mr. B. R. Turner, Controller,

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which we quote in full:

"Certain Hungarian refugees, who wish to remain anonymous, will testify before the Committee on the Problem of Hungary now meeting at headquarters. The Secretary General has approved the following arrangements concerning reimbursement of expenses which the refugees will incur by appearing before the Committee.

"1. Each refugee witness will be entitled to reimbursement for the cost of round trip transportation between his home and UN headquarters, and in addition will be entitled to \$10.00 for each day or fraction thereof that he testifies before the Committee. This per diem is paid in lieu of reimbursement of actual expenses for meals, lodgings, taxis, and all incidental expenses.

"2. You are authorized to make the payment set forth in paragraph (1) on petty cash vouchers made payable to "Refugee 1," "Refugee 2," etc., without further identification. The cash payable against vouchers will be picked up by the Assistant Secretary of the Committee, Mr. P. Bang-Jensen, who will sign for receipt of the funds and be responsible for turning them over to the entitled witnesses.

"3. Mr. Bang-Jensen will be responsible for maintaining a secret register showing the names of the witnesses identified by number only on the petty cash vouchers. *This register will not be available to the Controller's staff, [Emphasis Cordier's]* but when the Committee has completed taking testimony at headquarters the Under Secretary for the Department of Political and Security Council Affairs will notify the Controller of the total number of refugee witnesses who have appeared before the Committee."

This memorandum does not by any stretch of the imagination show that Bang-Jensen was expected to reveal the names of the anonymous witnesses to anybody, even the Secretary General himself. It is one of the basic documents which strongly supports Bang-Jensen in the position from which he would not waver.

We come back to the problem of U.N. security as far as "leaks" are concerned. There was not only the fatal leak described in the *Newsweek* story. There is another case of an U.N. leak of more recent time which also seems to justify the strong doubts Mr. Bang-Jensen had about U.N. security.

On July 15, 1957, the Associated Press reported from Colombo, Ceylon, that the Ceylonese Prime Minister had just informed the House of Commons "that Dhanala Samarasokara, thirty-six years old, a Ceylonese employed in the United Nations' Department of Economic and Social Affairs, had turned over to a Russian, Vladimir Grusha, some information on the fact finding investigation by Ceylon and four other nations." The same report also mentioned the fact that Mr. Grusha, former First Secretary of the Soviet Delegation to the U.N., had left the United States on April 10, 1957, "at the request of the United States Government." The Ceylonese International Civil Servant, Samarasokara, was dismissed by Mr. Hammarskjöld on December 16, 1957. These undisputed facts clearly contradict those assertions in the Gross Committee's Report of December 21, 1957, according to which secret material on the United Nations has always been safeguarded without any leaks or abuses.

How the Gross Committee, whose members must have been familiar with

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the case of Mr. Samarasokara and especially with the fact that he was summarily dismissed by Mr. Hammarskjöld on December 16, 1957, only five days before the Interim Report was released to the press, could ever assert that there had been no leaks in the history of the United Nations, remains to be explained. The facts as revealed in the Ceylonese case alone give the outright lie to Mr. Ernest A. Gross and his colleagues who signed with him the three official reports. Their statement is simply not true, and the circumstances show it is not even plausible that they could have believed it to be true.

However, that is not all. Bang-Jensen had other and more direct reasons for his insistence on the undisturbed anonymity of the Hungarian witnesses. This fact stands out very clearly from a secret memorandum he wrote on October 11, 1957 to the Under Secretary, Dr. Dragoslav Protitch, and through him, of course, to Mr. Hammarskjöld:

"Several of the witnesses inquired carefully in advance about how their name would be kept secret. As to the Secretariat, I could assure them that nobody but I would know their name. Two prominent members of the Hungarian Communist Party both asked whether they could be certain that Mr. Hammarskjöld would not learn their names. I feel free, if the Secretary General should like to know, to reveal the reason they gave for making this a condition."

Mr. Hammarskjöld did not want to know. Therefore, after having waited eight months, Paul Bang-Jensen wrote another memorandum on June 14, 1958, this time addressed to Mr. Hammarskjöld. It is a basic document of the Bang-Jensen case and consists of more

than thirty pages. In this memorandum, Bang-Jensen included the quotation from his memorandum to Dr. Protitch of October 11, 1957, quoted above, and then continued:

"In all these months, you have shown no interest in learning the reasons given by these two witnesses.

"I feel myself that the reasons they gave are not irrelevant to an evaluation of the charges against me; however, I have been reluctant to put them in writing without your authorization and you have given me no opportunity to inform you about this or other matters orally since, on 4 June, last year, I first brought the various irregularities to your attention."

It must seem strange that Mr. Hammarskjöld has never been interested in knowing the reasons the two high-ranking members of the Hungarian Communist Party suggested to Bang-Jensen. How could Mr. Hammarskjöld ever evaluate Bang-Jensen's refusal to hand over the list, when he never cared to know the Hungarians' reasons for their absolute insistence on anonymity. It was certainly Mr. Hammarskjöld's duty to inform himself about the "reasons" the two Hungarians gave for so emphatically precluding his own knowledge of their identities. There seems to be only one answer to the question of why Mr. Hammarskjöld did not desire to learn these reasons: He was afraid to do so.

If he had been absolutely sure that no good reasons could have been given to Bang-Jensen, Mr. Hammarskjöld probably would have been tremendously interested in learning about them, if for no other reason than to disprove slanderous allegations. If there was a scintilla of possibility that the "reasons" advanced by the two high-ranking Hun-

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garian Communists were correct, he must have been afraid even to discuss them with Mr. Bang-Jensen. No other interpretation of the remarkable incident seems to be possible.

The probable character of the reasons given by the Hungarians seems to be indicated by Mr. Bang-Jensen's discreet remark that he was equally "reluctant" to put them in writing on June 14, 1958, as he had been on October 11, 1957. He obviously protected Mr. Hammar-skjoeld far more than Mr. Hammar-skjoeld had ever protected Mr. Bang-Jensen.

### VI

#### GROSS COMMITTEE, SECOND AND THIRD REPORTS

THE SECOND INTERIM REPORT, issued by the Gross Committee, was released to the press on January 15, 1958 under the heading: "Secretary General Receives Report of Committee Investigating Bang-Jensen Case."

As the Report states in the beginning, "the Special Committee on the Problem of Hungary had taken testimony from 111 witnesses in five cities, beginning in New York on 17 January 1957, and proceeding thence to Geneva, Rome, Vienna, London and back to Geneva, where the hearings were concluded in mid-April. Of the 111 witnesses who appeared before the Committee, 81 requested leave to testify anonymously. In every case the request was granted without question. . . . They were entitled to the shelter of anonymity which they sought, and they received it."

Here it is again: "Anonymity" was granted "without question." What does that mean? It can only mean what it says and what Mr. Bang-Jensen had said to the witnesses: That he would be

the only one within the Secretariat who would know the names of the witnesses and that not even a "sealed" list would be deposited with the Secretariat. If it does not mean this, I do not know how the anonymity of the witnesses could have been guaranteed.

The second Interim Report also reveals that not until October 9, 1957, more than four months after the conclusion of the Special Committee's work, did Mr. Hammar-skjoeld and the Secretariat appear to learn for the first time "that Mr. Bang-Jensen had retained in his possession certain papers relating to the work of the Special Committee, which contained material tending to identify witnesses who had appeared before the Committee anonymously. He was instructed to transmit such papers under seal to the Under-Secretary for Political and Security Affairs, to be kept in secure custody. This he refused to do, on the ground that, in conducting interviews with certain prospective witnesses, he had given assurance that he alone of all members of the Secretariat would have knowledge of their identity.

"Inasmuch as he persisted in this refusal, he was on 6 December, 1957 suspended from duty, with pay, pending further investigation. Such suspension became effective on 4 December 1957 and is without prejudice to his rights as a staff member."

This statement brings us right back to the same point already raised. Since the Gross Committee, the Special Committee on the Problem on Hungary and Mr. Hammar-skjoeld have always maintained that it was Mr. Bang-Jensen's duty to surrender the secret list of witnesses, together with other confidential and non-confidential documents in his

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possession, why had they not asked Mr. Bang-Jensen to hand over all of these papers immediately after his return from Europe? Or at least after the Special Committee had concluded its work on June 7, 1957? Why?

I repeat what I have said before: If nobody in the Secretariat, nor Mr. Hammarskjöld himself, were prudent enough to do this, was it not a dereliction of duty which should even today be punished by the summary dismissal of those responsible? Such a blunder of high-ranking officials in any Government agency around the world would undoubtedly lead to a disciplinary investigation which could only end in such dismissals.

It is interesting to note that, as a matter of fact, apparently neither Mr. Hammarskjöld nor anybody else in the Secretariat would have asked Mr. Bang-Jensen for the return of the list at all, were it not for the accident that the U.S. Department of State had asked the Secretary General to verify an assertion made by an Hungarian refugee who was awaiting deportation. This refugee maintained that he was one of the secret eighty-one Hungarian witnesses who had asked to remain anonymous. In order to save him from deportation, immigration authorities asked the State Department to have the refugee's allegation verified by the United Nations. This, and nothing else—on the surface, anyway—started the ball rolling in the United Nations.

The Gross Committee, in its second report, recommended that "Mr. Bang-Jensen be instructed forthwith to burn these papers, in a sealed envelope, in the presence of a United Nations security officer. Furthermore he should be required to give explicit assurance

that no copies of the papers have been made by him and that, to the best of his knowledge, no such copies are in existence."

On January 18, 1958, the Secretary General "concurred" in this recommendation. In a terse statement released on that day to the press, the concurrence read: "The Secretary General has decided to accept the recommendation of the Committee that such papers as Mr. Bang-Jensen possesses should be destroyed by burning in the presence of an United Nations official."

The historic burning of the papers took place on January 24, 1958. They were burned on the roof of the Secretariat building in the presence of Messrs. Bang-Jensen, his counsel Adolf A. Berle, Jr., Dr. Dragoslav Protitch and an U.N. security officer. At the same time, Mr. Bang-Jensen assured the Secretary General in a letter that he had delivered for burning "all papers in his possession relating to witnesses who appeared anonymously before the Special Committee on the Problem of Hungary" and that he had not retained any copies of those papers.

The third and final report issued by the Gross Committee shows two dates, the 7th and 8th of February, 1958. It consists of 35 pages of text and an additional 164 pages made up of five annexes. In essence, it rejected every charge ever made by Mr. Bang-Jensen concerning sabotage, as well as his assertion of having received full authority to promise anonymity, to prospective witnesses. And it recommended his summary dismissal, by special reference to Staff Regulation 10.2 which reads:

"The Secretary General may impose disciplinary measures on staff members whose conduct is unsatisfactory.

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"He may summarily dismiss a member of the staff for serious misconduct."

The Final Gross Report goes so far as to distort certain events by interpreting them as disparaging to Mr. Bang-Jensen, when the facts clearly speak against such an interpretation. Thus for instance we can read, on Pages 31 and 32, the following:

"In mid-June (1957) Mr. Bang-Jensen departed on a two-months home leave. It was thought by his superiors that a period of rest and recuperation after his strenuous work with the Committee on Hungary might have a beneficial effect upon him. When he returned to New York in August and renewed his charges, inquiries were made on the Secretary General's instructions by Under Secretary Ralph J. Bunche. After several interviews and exchanges of memoranda, Mr. Bunche concluded that Mr. Bang-Jensen was unable or unwilling to substantiate his allegations and that they were groundless."

This passage is untruthful and misleading on two counts. The "surprise" indicated by the authors of this Final Gross Report, concerning the fact that Bang-Jensen had "renewed his charges" after his return from home leave, is absurd. As the reader will remember, Mr. Hammarskjöld had written to Mr. Bang-Jensen that the Secretary General would see him after his return from Denmark, in order to discuss personally with him all his complaints—a promise which Mr. Hammarskjöld did not honor. How could the authors of the Final Gross report have expected from Mr. Bang-Jensen that he should have forgotten or ignored this explicit promise? Naturally, Mr. Bang-Jensen waited for the Secretary General to invite him, according to his promise, and had by no

means forgotten what he wanted to discuss. Instead of seeing Bang-Jensen, Mr. Hammarskjöld sent Mr. Ralph Bunche, as we know.

The other misrepresentation lies in the remark made about Mr. Bunche's conversations and the exchange of memoranda with Bang-Jensen. There the Gross Committee opens itself wide for criticism. How could Mr. Bunche "decide" that Bang-Jensen's allegations were "groundless" when he himself had stated that Mr. Bang-Jensen, for whatever reasons, did not "substantiate" them — meaning that the "substantiation" had not been presented to Mr. Bunche? It is, as we have seen already, quite possible that Bang-Jensen had *good reason* not to offer any "substantiation" of his allegations to Mr. Bunche, who had already stated that he was not going to spend even five minutes to look at the evidence. To draw from this fact the conclusion that the allegations were "groundless" is sheer nonsense — as should have occurred to the members of the Gross Committee!

Since Bang-Jensen is dead, it will never be possible to judge conclusively the merits of his allegations of sabotage, or of his claim as to the authority given him to grant absolute anonymity to witnesses. Therefore, we could concede that Bang-Jensen might, at times, have been an unpleasant, trouble-making, and even a somewhat hysterical colleague, who may have seen "sabotage" where there was none. (We grant this for the sake of argument, not because we believe that it was the case.) Even if he had been all this and much more, he was entitled to "due process of law" within the Secretariat. There can not be the slightest doubt that Bang-Jensen was deliberately and definitely denied

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"due process of law," and that therefore all the legal consequences, originating in the three Gross Reports, including his dismissal, are illegal, and constitute a very black mark on the record of the United Nations.

### VII

#### A CLOSER LOOK AT THE GROSS COMMITTEE

WE HAVE ALREADY SEEN that the appointment of Ernest A. Gross as Chairman of the Investigating Committee was not only unfair to Bang-Jensen, it was outright inadmissible in any respectable judicial procedure. Mr. Gross was not only the legal adviser of Mr. Hammarskjöld, and therefore not an "independent outsider" as he was described by the Secretariat. Mr. Gross had — at the time of his appointment — already received \$34,700.00 from the United Nations, through Mr. Hammarskjöld, for consultations during the years, 1953-54, when he had acted on behalf of American U.N. staff members whom the United States desired to have removed from the U.N. staff as great security risks. These had been staff members who were proved beyond any reasonable doubt to be Communists, and pro-Communists who had time and again used the Fifth Amendment as well as others when appearing before the Senate Internal Security Subcommittee. Since then, Mr. Gross may have received other large fees from the United Nations. *Who's Who in America* for 1956-1957 lists Mr. Ernest A. Gross as "legal Adviser to Secretary General Hammarskjöld." What fee Mr. Gross has received for handling the Bang-Jensen case, we do not know.

The second member of the group comprising the Gross Committee was in

its original composition Mr. Constantin A. Stavropoulos, Under Secretary for Legal Affairs. The third member — in the original composition — was Mr. J. A. C. Robertson, Director of Personnel, the same gentleman who, as we have seen, communicated to Mr. Bang-Jensen his suspension and who found it necessary to have him escorted from the U.N. by two guards. As we know, Mr. Robertson was immediately replaced by Mr. Phillippe de Seynes, Under-Secretary for Economic and Social Affairs. This fact is far more significant than appears at first glance. Since Mr. Robertson was leaving the United Nations and the United States for good, to return to his home in England, and already had made his reservations some time before his appointment as member of the Gross Committee, this appointment deserves some comment. It leads to only one interpretation, a conclusion which was familiar among U.N. officials at the time: It was expected that Bang-Jensen could be railroaded out of the U.N. within the single week, while Mr. Robertson was still in New York and serving with the Committee. We should also mention that during that week Mr. Hammarskjöld was in Europe; possibly, as it was suggested in U.N. circles, to escape criticism, especially from Scandinavian circles, against the summary and harsh treatment accorded to Mr. Bang-Jensen, a fellow Scandinavian who was the highest-ranking Dane in the Secretariat.

On December 6, 1957, Mr. Robertson requested Mr. Bang-Jensen to attend a meeting of the Gross Committee and to bring with him "Such documentation as you may consider relevant to help you in answering questions arising from the review." Since nobody had ever told

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Mr. Bang-Jensen the exact charges to be preferred by the Gross Committee, and against which he would have to defend himself, he obviously could not know which documents might be relevant. Moreover, he could not have brought the documents anyway, since he had already been explicitly denied access to his own office in the U.N., and therefore could not reach his files. It would be hard to imagine a greater travesty on justice or even on "due legal processes" than this brazen demand by Mr. Robertson.

Bang-Jensen met the committee for the first time on December 13, 1957, without a lawyer, still believing in the assurance of Mr. Gross that his "group" was not "either a formal group or committee in the sense of being guided by any rules or regulations of the Secretariat." Bang-Jensen, at that stage of the proceedings, could not anticipate that this little "informal group" would transform itself into the official U.N. Committee to investigate Mr. Bang-Jensen's conduct — which it really was from the beginning. He was fully entitled to believe the flimsy pretension of Ambassador Gross, since he was never presented with the charges and since the Committee never heard his answers to them. How could he have anticipated that the same "little group" would condemn him in public and would make official recommendations to the Secretary General for his dismissal? By doing this, the Gross Committee usurped the functions of the Joint Disciplinary Committee as well as of the Joint Appeals Board.

Bang-Jensen appeared a second and last time before the Gross Committee on December 16, 1957. Again without counsel. After that, he was never heard

again, although the Gross Committee continued for two more months its investigation of the case. As Bang-Jensen pointed out in his own brief of August 29, 1958, written in the third person, "it became obvious that the questioning served more to confuse the issue than to establish and clarify the facts; attempts were made to put words in his mouth and Mr. Bang-Jensen was interrupted whenever he tried to give a comprehensive explanation. Some of the most essential aspects were only touched upon; the 'group' carefully steered away from these while they asked numerous questions about irrelevant matters."

That situation prompted Bang-Jensen to inform the "group" that he had been advised "not to meet again with them without legal counsel." On December 23, 1957, the "group" had learned that Mr. Adolf A. Berle, Jr. would be Bang-Jensen's attorney. The Gross Committee demonstrated a rather peculiar reaction to that fact: It simply did not invite Mr. Bang-Jensen anymore although — to repeat — its functions continued until February 8, 1958, the day the third and final Gross Report was submitted to Mr. Hammarskjöld.

Although Bang-Jensen never did appear again before the Gross Committee, his lawyer Mr. Berle succeeded in receiving at least a transcript of the two "interviews" the Committee had had with Bang-Jensen on December 13 and 16. These transcripts, allegedly prepared from tape recordings, gave no less than 231 (!) of Mr. Bang-Jensen's answers incorrectly! In several cases, the transcripts showed exactly the opposite of what Bang-Jensen had actually said. Many answers were reported in such a way that they did not make any sense

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at all; as Bang-Jensen wrote "possibly to support the insinuations that he was mentally sick!"

Another and no less scandalous procedure must be seen in the fact that Mr. Bang-Jensen has never received the transcript of the testimonies of other witnesses examined by the members of the Gross Committee. Therefore, he was completely deprived of the opportunity to state his own opinion on those testimonies, nor did he ever have the opportunity to cross-examine the witnesses. Some of these witnesses later informed Mr. Bang-Jensen that they had never told the Committee what they were reported to have said. All of these facts — and they are facts, established beyond any shadow of doubt — show that Mr. Bang-Jensen did not receive "due process of law," and that therefore the proceedings and their consequences were illegally arrived at. But this is just the beginning, with more shocking facts to come.

Suddenly, on December 21, 1957, a Saturday, the so-called "informal" Gross "group" turned into the official "Committee to Investigate Mr. Bang-Jensen's Conduct," and released its first Interim Report with preliminary "conclusions" to the press. That happened without Bang-Jensen's knowledge. He did not even receive a copy of the press release until after the week end, and only after he had requested it in person from the Secretary of the Gross Committee, Mr. Wattles. Mr. Wattles himself had not known that a press release had been given out, nor that the Interim Report had already been submitted to Mr. Hammarskjöld. The Press Conference was called by the Secretary General's Executive Assistant, Mr. Andrew Cordier. This was a quite unusual pro-

cedure, since there are almost never Press Conferences held on a Saturday, when so few reporters are around. At this Press Conference, Mr. Cordier made several statements greatly at variance with the true facts. Those statements were reflecting upon Mr. Bang-Jensen who was neither informed of, nor present at, the Press Conference. And although the Press Conference was recorded on tape, Mr. Cordier refused to make it available to Mr. Bang-Jensen, for reasons presumably known only to God and Mr. Cordier.

The second Gross Report was submitted to the Secretary General and released to the press under the same circumstances. On January 15, 1958, Mr. Berle was called to the United Nations. He was told by the Gross Committee that "as a courtesy," the members would like to give him a carbon copy of the report before it was submitted to Mr. Hammarskjöld. Mr. Berle glanced over it and immediately stated that he hoped the report would not be released to the press. He was told explicitly that "in all likelihood" it would not be. What the gentlemen from the Gross Committee did not tell Mr. Berle was the plain fact that *it had already been orally released to U. N. correspondents* twenty minutes before Mr. Berle had arrived. Fifteen minutes afterwards, mimeographed copies had been distributed to the press! Mr. Berle did not learn about these facts until he arrived at his home later in the evening, where he also heard that the press had been trying to reach him. The correspondents had also been telephoning Mr. Bang-Jensen, who informed them that he was absolutely unaware of the submission of a second Gross Report to the Secretary General, as well as of its

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release to the press.

The next day, Mr. Bang-Jensen went to the office of Mr. Wattles to obtain a copy of the second report, since, of course, none was sent to him. Again, Mr. Wattles told him that he had never seen this second report and declined all responsibility for the many errors of fact contained in it.

On January 17, 1958, Mr. Berle released a short statement on behalf of Mr. Bang-Jensen, welcoming the recommendation that the list of witnesses should be burned as Mr. Bang-Jensen himself had suggested long ago, but also stressing the fact that the accused had never seen the report before its release to the press and that "it contains a number of allegations which are new to him and also a number of serious errors of fact." Mr. Berle gave one example of those serious errors of fact by pointing out that the "report" gave a completely incorrect description of the security measures Mr. Bang-Jensen had taken to protect the list of the Hungarian witnesses.

In his own brief of August 29, 1958, Mr. Bang-Jensen summarized his own opinion of this second "report" as follows: "Actually, the 'report' gave a completely false and distorted picture, suppressed the essential facts regarding the whole question of the list of witnesses, made numerous completely unsubstantiated allegations and attempted by innuendo and untruthful assertion to raise doubts about Mr. Bang-Jensen's sanity."

But the chain of character assassination did not break. One day after Mr. Berle had released his short statement on behalf of Mr. Bang-Jensen, January 17, 1958, the day before he was leaving the United States for a six-day business

trip to Puerto Rico, he had telephoned Mr. Stavropoulos and was explicitly promised that nothing would be done, "at least not in public," until Mr. Berle's return, with a single possible exception that the Secretariat might issue a brief factual statement to the effect "that Mr. Bang-Jensen had been instructed to burn the list."

One would think that was a clear promise. The very next day, January 18, 1958, it was brazenly broken by the Secretariat, which again issued a press release stating that the Gross Committee had "demonstrated that the irresponsible handling of the papers by Mr. Bang-Jensen had compromised their character and their credibility." By releasing such statement, the Secretary General completely disregarded—without any further investigation—Mr. Berle's and Mr. Bang-Jensen's sharp protest of January 17, in which it was stated that the Gross Committee "had given an incorrect description of the way he had safeguarded the list."

On the very same afternoon (January 18, 1958), notwithstanding the promise given by Mr. Stavropoulos, Mr. Gross himself held a press conference which lasted more than one hour, and in which Mr. Gross made additional statements in grave conflict with the truth, well known to him. Mr. Gross clearly attempted to create the impression that Mr. Bang-Jensen was a mental case. Asked by a reporter whether Mr. Gross did not think that such an assertion was libelous, he denied this, stating that he had sought and received special assurances on that point.

Again, a transcript was made and again Mr. Bang-Jensen was denied access to it. This transcript which circumstantiates the framed-up nature of

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the charges brought against Mr. Bang-Jensen is one among the many documents to which Mr. Bang-Jensen requested access in his appeal of August 29, 1958. Rightfully he points out in his appeal: "Since it was a public press conference, the transcript can hardly be said to be secret, and since the conference was called to deal solely with the Bang-Jensen case, the transcript can hardly be said not to be relevant to the case."

Mr. Berle informed the Gross Committee that he would submit a brief in which he would point out every single error contained in the second Gross Report of January 15, 1958, and in which he would also answer every single one of the many new allegations contained therein. Mr. Gross answered Mr. Berle on January 30, 1958, that the Committee would not accept such reply to its own "report" of January 15, 1958, "since it had already concluded its work and would report to the Secretary General in a couple of days."

As if this denial was not scandalous enough — the accusing Committee refuses to accept the accused person's lawyer's answer! — it was moreover a deliberate inaccuracy in so far as it asserted that the Final Gross Report would be submitted to the Secretary General in a "couple of days." Since Mr. Gross made this statement on January 30, it was to be expected that the Final Gross Report would be submitted to Mr. Hammarskjöld not later than Saturday, February 1, 1958. Even if we interpret the expression "couple of days" liberally, meaning not only two days, but three, four or even five, the date of submission would not be later than Tuesday, the fourth of February, 1958. The Final Gross Report, how-

ever, was not submitted until Saturday, February 8, 1958, and Mr. Bang-Jensen did not receive a copy of this document upon which his life depended until February 19, 1958! Even then, he received it only because he had vigorously protested the delay, and had pointed out that *the press had been incorrectly told that he had already received a copy.*

In spite of the fact that the Final Gross Report was reproduced in at least twenty-five copies, Mr. Bang-Jensen was ordered not to reveal its contents. This Final Gross Report was kept secret and has never been released to the press. It was widely "leaked."

But not even Bang-Jensen's lawyer was allowed to see a copy of the document. This was in line with Mr. Hammarskjöld's subsequent refusal to allow Bang-Jensen to continue to be represented by an independent legal counsel. While Mr. Hammarskjöld denied Bang-Jensen's lawyer a copy of the Final Gross Report, he saw fit to send one copy of this "thoroughly derogatory document" to the Danish Government!

Dealing with this Final Gross Report, Mr. Bang-Jensen wrote in his appeal and brief of August 29, 1958: "It will be demonstrated that there is hardly a paragraph in the 35-page 'report' which does not contain several incorrect or misleading statements. In many instances, it will be relatively simple to prove that the members of the Gross Committee should not possibly themselves believe their own assertions. They might have thought that they could safely use the 'big lie' technique because they believed themselves to be covered by diplomatic immunity and expected that Mr. Bang-Jensen would

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resign rather than risk being subjected to further public slander."

With the Final Gross Report, Mr. Hammarskjöld had what he had always wanted to have: The recommendation of Mr. Bang-Jensen's dismissal without having him granted "due process of law." The Final Gross Report listed the following four charges against Mr. Bang-Jensen:

1. That he had "repeatedly and persistently made unfounded charges and allegations";

2. That between May 28, and 30, 1957, he had, in an improper manner, pressed his views regarding the drafting of the Hungary Report on the Chairman and the Rapporteur of the Committee on Hungary; and that, on May 31, 1957, he had refused to comply with an instruction of the Secretary of that Committee, Mr. William Jordan, not to attend a meeting of the Committee;

3. That, as Deputy Secretary of the Committee on Hungary, he had given assurances to prospective Hungarian witnesses in excess of his authority; and

4. That he had refused to hand over the list of witnesses to his superiors.

It must be noted that the first two charges were completely new to Mr. Bang-Jensen. Also, as he pointed out, they referred to long past events "which were known to the Secretary General at the time, but for which Mr. Bang-Jensen had not been criticized then — on the contrary, he had at that time in this connection received from Mr. Hammarskjöld an expression of gratitude."

Since charges No. 1 and No. 2 in the Final Gross Report were completely unknown to Mr. Bang-Jensen, he never had the opportunity to defend himself

against them. Nevertheless, the Gross Committee found him guilty of both. Furthermore: The Final Gross Report, together with the two reports preceding it, constituted the only basis upon which the Joint Disciplinary Committee and the United Nations Administrative Tribunal decided to hold up Mr. Bang-Jensen's dismissal.

### VIII

#### THE NEXT STEP

THE CASE WAS NOW immediately referred by Mr. Hammarskjöld to the Joint Disciplinary Committee. This procedure made the whole case even more "strange." For both Mr. de Seynes and Mr. Stavropoulos, being two of the three members of the Gross Committee, were high officials in the U. N. Secretariat, and hence the superiors of the very men, the three members of the Joint Disciplinary Committee, who would have to review the findings of the Gross Committee.

Of this step Mr. Bang-Jensen, in his own brief, already quoted, said: "How could the members of the Disciplinary Committee be expected to find the true facts in this enormous and complex case, considering the confusing and deceiving Gross 'report' and its seventy purposefully selected and, in part, specially prepared annexes — a 'report' which had been drafted and submitted by an impressive-looking committee which had spent two months 'investigating' the matter and already had passed sentence in the most definite terms? How could the Disciplinary Committee, or the Appeals Board, both of them consisting of subordinate officials, feel free to overrule the convic-

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tion and sentence handed down to them from above by a committee consisting of two Under-Secretaries and a so-called 'independent' chairman of considerable prominence? The case in fact was irreparably prejudiced by the submission of the Gross 'report' to the Disciplinary Committee."

And in a thorough summary of the Gross Committee's Final Report, based on the most scrupulous and most accurate confrontation with the principle of "due process" as guaranteed in every free country of the world, Bang-Jensen called it a "scandalous, partisan, vituperative and defamatory *ex parte* judgment designed conclusively to pre-empt — or at least fatally prejudice — any impartial consideration by the Joint Disciplinary Committee of the real issues in the case." And he continued that the Final Report:

"Specifies in explicit detail the manner in which the sentence [*Emphasis Bang-Jensen's*] of the Gross tribunal is to be carried out by the Joint Disciplinary Committee; either by my dismissal for gross misconduct, as charged by Mr. Gross; or more viciously, by my separation from the Secretariat on grounds of insanity, as alleged by Mr. Gross;

3. "Preempts unlawfully the jurisdiction and functions not only of the Joint Disciplinary Committee but of the Joint Appeals Board;

4. "Is designed to divert attention from any real scrutiny of the real issue in the case, by a vicious attack on the character and mental competence of the undersigned, by a person not a member of the United Nations [Mr. Gross], under the cover and protection of the legal privileges and immunities accorded the United Nations;

5. "Constitutes a flagrant and unconscionable violation of the procedural safeguards established by the General Assembly under Article 101.1 of the UN Charter, to protect Secretariat employees against arbitrary exercise of power by the Secretary General or those acting by or under color of his authority."

Bang-Jensen is here concerned not so much with the merits or demerits of his case, for instance with the question as to whether he was or was not duly authorized by Mr. Hammarskjöld to promise absolute anonymity to the Hungarian witnesses. With these and similar questions, concerning the substance of his case, he had dealt in great detail in his own memorandum to the Secretary General, of June 14, 1958, as we shall see later. Here, he is concerned with the even more important question of "due process," of which we already know that it was completely lacking. That this was not just Bang-Jensen's conviction can be seen by another document to which I ascribe the greatest importance, a document which herewith is published for the first time.

It is a private letter, written by none other than the well-known J. Anthony Panuch, former Under Secretary in the U. S. Department of State, who has just ended a term as Special Adviser to the Mayor of the City of New York, Robert F. Wagner. Mr. Panuch, a lawyer of greatest experience in national and international affairs, who had represented Mr. Bang-Jensen for a short time, wrote the following letter to Mr. Manfred Simon, a jurist and member of the U. N. Secretariat who also had represented Mr. Bang-Jensen for a time.

The letter reads as follows:

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"March 27, 1958

"Dear Mr. Simon:

"1. Pursuant to our telephone conversation of this morning, I understand that Mr. Bang-Jensen has authorized me to return to you, your legal opinion dated 17 March 1958 regarding the suability in an appropriate American Court, of the members of the Gross Committee as a result of the slanderous imputations and innuendos contained in their report submitted to the Secretary General and made the basis of charges preferred against Mr. Bang-Jensen, by his direction.

"2. I return the opinion herewith. Since we are both out of the case let me say this. In my long years of Government service in responsible positions of the United States Government, I have never seen anything to approach the Gross Committee 'report' as a scurrilous and cowardly attack on one official of an international agency by his supposedly reputable colleagues, aided and abetted by an outsider, under the cover of the protection accorded them by the Privileges and Immunities Act. That is the reason I hit so hard in the exceptions to the 'report' which I prepared in Bang-Jensen's behalf.

"3. You and I may differ in our opinion as to *who* [*Emphasis by Mr. Panuch*] was the real author of the 'report' but, in the last analysis, his identity is an inconsequential matter. The thing that counts is that experienced, sophisticated and presumably responsible men like Hammarskjöld and Cordier, who necessarily have to operate in a public opinion 'Goldfish Bowl,' have been so misguided as to make the Gross 'report' the basis of their charges against Bang-Jensen. When they permitted that to happen,

they set in motion a chain of events that will open up a veritable public opinion Pandora's Box when the case gets to the Administrative Tribunal. They may find that they won a minor bureaucratic battle only to have Bang-Jensen win the major war of public opinion.

"4. It was to avoid this eventuality, with all of its destructive potentialities to the UN, that I hoped that the controversy could be disposed of on a basis of 'honor to both sides.' The 'White Paper' on this, by way of an interchange of letters between the Secretary General and Bang-Jensen, as I frankly told you, would involve difficulties. However with firm resolve and good faith on both sides, I am convinced an acceptable solution was possible. Unfortunately I completely underestimated the intensity of Mr. Bang-Jensen's feeling about the Gross 'report,' the fact that it had been given such a wide circulation in the Secretariat, that it had in fact been 'leaked' (since it was not a classified document), while Bang-Jensen was under strict official injunction of secrecy.

"5. I completely agree with you that whatever the problems of libel action against Messrs. Gross, Stavropoulos and de Seynes may be, the institution of such a suit would receive tremendous publicity on account of its novelty and because of the issues and personalities involved. Whatever its outcome, the publicity would make certain that the international civil servant of the UN Secretariat, would, in the future, be safe from abuses such as the Gross Committee and the Gross report.

"6. As a former official of the United States Government, I would hate to see that kind of suit instituted. It would

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damage the public standing of the Secretariat. That much is certain. It would probably set off an agitation in the United States Congress for an amendment of the Privileges and Immunities Act to preclude any possibility of future instances of 'McCarthyism' (more ruthless than anything McCarthy ever dreamed of), in an international organization supported in the main by the money of American taxpayers.

"7. But what is even more important is the human element of the situation and its dramatic setting which command a powerful mass appeal with public opinion here and abroad. I am not referring now to the characteristic sympathy of Americans and Europeans for an 'underdog.'

"There is an element of classic Greek tragedy in the case. This casts Bang-Jensen in the role of the heroic figure who is being ruthlessly persecuted because he refused to give up the list of anonymous Hungarian witnesses to officials of the UN Secretariat, who demonstrably took no security measure to safeguard the inviolability of their identity.

"To me that is the supreme moral issue of the Bang-Jensen case. It carries an explosive menace for the future of the Secretariat, when it is tried in the forum of international public opinion, as now seems inevitable. If and when that time comes, that issue, in my opinion cannot be met by the feeble defense of the Gross 'interim report' that 'there are no secrets in the UN' and, therefore, it was not incumbent on the Secretary General to establish extraordinary safeguards in the case of the sensitive work of the Committee on Hungary. *In that situation, there were desperately important secrets, on*

whose security human lives depended.

"This is a setting which will raise profound concern in the minds of all friends of the UN and which its enemies will exploit with consummate skill to its detriment.

"Faithfully

(signed) "J. Anthony Panuch."

### IX

#### THE JOINT DISCIPLINARY COMMITTEE

THE NEXT U. N. administrative entity to deal with the Bang-Jensen case was the so-called Joint Disciplinary Committee. Immediately after the submission of the Final Gross Report, Mr. Hammarskjöld filed formal charges against Bang-Jensen to be considered by this Committee. It considered the case from March 20 to June 5, 1958. The Joint Disciplinary Committee consisted of the following three members, all of them U. N. Secretariat officials: Mr. A. D. Meurig Evans, Chairman; Mr. Charles Coates; and Mr. Jean-Pierre Martin.

Under the accepted rules of "due process of law" it must be considered as another strange item that Mr. Meurig Evans did not disqualify himself. Mr. Evans was the highest-ranking assistant to Mr. Andrew Cordier, who was so deeply involved in and — as Mr. Bang-Jensen stated — "compromised" by the case.

As to the other members of the Disciplinary Committee, we have already noted that both were subordinates of Messrs. Philippe de Seynes and Constantin A. Stavropoulos, chairman, member, and co-signers of the Gross reports. Nobody could and nobody did in fact expect them to contradict their superiors. No American court would have allowed them to sit in a case so

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compromised and prejudiced by their superiors upon whom alone their livelihood depended.

In a memorandum of June 7, 1958, Bang-Jensen wrote about Mr. Coates: "Mr. Charles Coates, in fact, has personal knowledge that the charges against me are false. During the fall of 1957, I had several extended conversations with him. In October, I asked his advice about what to do since I had received no reply to the following repeated inquiry to the Secretary-General:

"In the meantime, I am in serious doubt about my duties as an international official. Sabotage has been carried out, allegedly on your instructions. You have failed to consider my evidence. Am I now expected to forget this matter? If not, to whom am I to turn?"

"Mr. Coates' advice at that time was that I was not obliged nor entitled to do anything; *he told me that in his opinion, even if the Secretary General had murdered his mother, he would not feel free to report it without the Secretary General's permission. Since the Secretary General had failed to answer my repeated request for advice, I was obliged, Mr. Coates felt, to forget the whole matter.* [Emphasis supplied by the author.]

"On February 7, 1958, I met Mr. Coates outside the United Nations. He suggested then that I should rather resign because I could not win anyhow. When I replied that, in order to vindicate myself, I was forced to take the case through the Disciplinary Committee and, if necessary, through the Appeals Board and the Tribunal, he told me that even so I would not have a chance because 'the whole machine' was organized against me."

We are grateful to Mr. Coates for his candor, which is rare indeed in the House on the East River. He is the only high-ranking U. N. official who ever dared — though for the wrong reason — to tell Bang-Jensen the truth, the truth that "the whole machine" was organized against him.

The questionability concerning the legality of the Joint Disciplinary Committee's proceedings at that time also derives from the fact that Mr. Bang-Jensen had already appealed the case to the U. N. Appeals Board. He had not appealed his dismissal. He had only appealed the Secretary General's persistent denial of "due process" by constantly refusing him proper access to the documents necessary for the preparation of his defense and proper time to prepare it. This appeal was filed *prior* to the proceedings in the Joint Disciplinary Committee and was generally considered as having priority. This opinion was even upheld by the Secretary General's representative, Mr. Green, who had told Mr. Bang-Jensen on May 27, 1958 that the case "of course" had to remain inactive in the Disciplinary Committee during the appeal, and that the administration realized that Bang-Jensen would carry the appeal on to the Administrative Tribunal, if necessary.

Nevertheless, the Disciplinary Committee proceeded with the case. To justify such procedure, Mr. Hammar-skjoeld, in his letter of dismissal of July 3, 1958, referred to staff Rule 111.3 which reads: "The filing of an Appeal with the Joint Appeals Board shall not have the effect of suspending action on an administrative decision which is the subject of the appeal." It is, however, doubtful whether this staff rule was

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applicable in the case of Bang-Jensen's appeal. He did not appeal an "administrative decision" which was the "subject of the appeal." Had he appealed his dismissal, staff Rule 111.3 could have been applied. But he did not do that. As Mr. Hammarskjöld himself had admitted, Bang-Jensen's appeal dealt with various "procedural aspects" of his case, mainly with the complete lack of "due process."

Mr. Hammarskjöld's representative, Mr. Green, obviously interpreted the administrative staff rules more correctly than did Mr. Hammarskjöld. The contradiction between the Secretary General and his representative as to the interpretation of a staff rule is thoroughly characteristic of the judicial jungle in the Secretariat, a judicial jungle deliberately created to cover up the lack of "due process" and therefore the "railroading" of a highly discomfiting U. N. official.

When the Joint Disciplinary Committee held its first meeting in executive session on April 24, 1958, for consideration of the charges preferred against Bang-Jensen, he immediately protested in a memorandum against this "flagrant violation of due process." His protest was, of course, of no avail. He repeated his protest on May 17, 1958, when he wrote that "it would be totally illegal and (would) amount to a travesty of justice" if the Committee went ahead during his own appeal. Again, the result was zero!

At the expense of being repetitious we now need to deal again with the charges against Bang-Jensen, as considered by the Joint Disciplinary Committee. We will give them in the exact wording as they later appeared in Mr. Hammarskjöld's letter of dismissal, of

July 3, 1958. The four specific charges read in this letter as follows:

1. "Persistent and unfounded charges against officials of the Secretariat.

2. "That you (Bang-Jensen) acted contrary to your obligations as an international civil servant and in defiance of instructions from your superior in pressing upon the Chairman and Rapporteur of the Special Committee, in an improper manner, your personal view concerning the drafting of the Committee's Report, and that you also refused to comply with an instruction from your superior not to attend a meeting of the Special Committee.

3. "In your preliminary interviews with prospective witnesses, you either gave assurances to prospective witnesses which were in excess of your authority, or subsequently you made a wrong and unjustified interpretation of the assurances given by you, or both.

4. "You failed to comply with orders first given orally on 9 October, 1957 and later in writing from the Secretary General to deliver for safekeeping in the Secretariat papers in your possession relating to witnesses before the Special Committee on the Problem of Hungary."

The evidence relating to the second charge submitted to the Joint Disciplinary Committee was not considered by the Committee due to the fact that "no reference to these charges was contained in any document authenticated" by Bang-Jensen's signature. It was therefore dropped although the Disciplinary Committee stated that its decision not to review it should not be taken as reflecting to any extent on the soundness of the charges themselves.

Notwithstanding the official dropping of the second charge, (because the

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evidence had not been considered), Mr. Hammarskjöld did not ignore it and considered it as fully proven. In his letter of dismissal, he wrote: "I do not feel that I can ignore the evidence that has been presented under this heading. The fact that you did improperly press your views directly on the Chairman and Rapporteur is substantiated by statements of those officers contained in the documentation made available to you and to the Joint Disciplinary Committee. So far as I am aware you have not denied the charge, and the fact that you have not availed yourself of repeated opportunities to comment on it, either to the Joint Disciplinary Committee or directly to me at my express request, would not be a reason for my withholding action with respect to a charge as serious as that." We have here a case where the Secretary General acts on a charge not considered by the Joint Disciplinary Committee, a charge which was formally dropped. Mr. Hammarskjöld accepted the charge, formulated by himself or on his behalf to be submitted to the Disciplinary Committee, decided on the validity of the charge, and passed judgment of dismissal partially based on the same charge! The cynical unfairness of such procedure seems to be self-evident. As to the other charges—one, three and four—the following should be said:

Bang-Jensen's charges against officials of the Secretariat were, as stated in the accusation, No. 1, "persistent," but by no means "unfounded" as we have already seen and shall further see.

The third charge, that Bang-Jensen gave in preliminary interviews with prospective witnesses "assurances in excess" of his authority, or had wrongly and unjustifiably interpreted those as-

surances given to him, has most certainly never been proved. Bang-Jensen believed, completely *bona fide*, that authority was given to him to promise all prospective witnesses complete anonymity. "Complete anonymity" includes the Secretary General.

The fourth charge against Bang-Jensen, that he refused to comply with orders to hand over the list of the eighty-one witnesses, is correct. It is the only one that is completely so. But his failing to comply with orders to hand over the list was based on moral grounds, on his solemn promise which, in turn, was based on what he believed to be sufficient authorization.

In his classical memorandum to Mr. Hammarskjöld of June 14, 1958 (forty-seven pages with annexes) Bang-Jensen answered every charge. This document is his real defense and at the same time the most devastating criticism of Mr. Hammarskjöld and the Secretariat ever levelled against them. We have now to take a close look at this document which has never been published before.

In his introductory remarks to this memorandum, Bang-Jensen says: "As to the so-called 'report' of the Disciplinary Committee, which recommends to you my dismissal for misconduct, it is sufficient here to remark that you yourself have a first-hand acquaintance with much information withheld from the Gross Committee and its rubber stamp, the Disciplinary Committee, and that you personally know that the charges against me are not true. Nor can you be unaware that the 'reports' of these two bodies contain many statements which are in conflict with facts known to you."

In the very first chapter of this mem-

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orandum, the author deals with the core and main accusation against him; with the charge that promises were given to prospective witnesses "in excess" of Bang-Jensen's authorization. His answer is very simple and has never been contradicted by Mr. Hammarskjöld or anybody else. Bang-Jensen writes: "It is difficult to understand how anybody can determine whether this charge is true, without knowing *what* [*Emphasis his*] I was authorized to promise the witnesses who testified before the Special Committee on Hungary and what you claim in this respect.

"However, the various so-called 'reports' of the Gross Committee and the Disciplinary Committee do not give the slightest hint as to this. Nor have you and Dr. Protitch, in spite of my many urgings since 10 October, 1957, been willing to tell me what you maintain that I was authorized to promise to the witnesses."

Then he reminds Mr. Hammarskjöld of the latter's own version concerning the authorization given to him. That early in February, 1957, Dr. Protitch had informed Bang-Jensen that "after several discussions with him you (Hammarskjöld) had finally agreed that I could promise the witnesses that, while their names would be available upon request to the members of the Committee on Hungary, I would be the only person in the Secretariat who would know their names."

Bang-Jensen then refers to the memorandum from Mr. Cordier of February 9, 1957, which we have quoted already, and in which it is stated that Bang-Jensen would be "responsible for maintaining a secret register showing the names of the witnesses." Bang-Jensen

also refers to another Cordier memorandum of a little later date, "which as I know, further will support my contention." He reminds Mr. Hammarskjöld that during his two "interviews" with the Gross Committee, he was definitely assured that these—very important—memoranda would be produced but that they never were. Bitterly, Mr. Bang-Jensen remarks: "Today, six months later, they still have not been made available to me, although I can hardly believe that you — or anybody else — will maintain that they are not relevant to the case."

And then Bang-Jensen asks Mr. Hammarskjöld the pertinent question, the question which has never been answered: "Why, for eight months, from February 8 to 9 October 1957, neither you, Mr. Cordier, Dr. Protitch, Mr. Jordan or anybody else in the Secretariat ever asked me:

"1. To see the list of witnesses.

"2. Where and in what manner I kept and safeguarded this perhaps most secret document in the United Nations on the security of which human life depended."

It is the problem with which we have dealt in the beginning, one of the cardinal points of the whole Bang-Jensen case, because no other point shows so convincingly the mess prevailing in the Secretariat. As we know, they would never have asked him to hand over the list of witnesses if the Department of State had not requested identification of a certain Hungarian witness. Bang-Jensen wonders why he was not asked for the list on at least four specific occasions. Had he not several times since October 9, 1957, when he was asked for the first time to surrender the list, inquired whether Mr.

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Hammarškoeld denied that he was given authorization to promise absolute anonymity? Mr. Hammarškoeld preferred not to commit himself and remained silent, as so often in the Bang-Jensen case. And Dr. Protitch maintained first that the promise Mr. Bang-Jensen was authorized to give, did not include the Secretary General. One day later, to be exact, on October 10, 1957, however, Dr. Protitch shifted his position and maintained that he could not at all remember the exact terms of the authority Mr. Bang-Jensen was given.

Two questions arise:

1. If Dr. Protitch could not remember on October 10, 1957 the exact terms of the authorization given Mr. Bang-Jensen, how could he have remembered those exact terms one single day before, on October 9, 1957?

2. How should it be explained that the Under Secretary, Dr. Dragoslav Protitch, did not keep some sort of administrative diary or any other kind of record? The same goes, of course, for Mr. Hammarškoeld and Mr. Cordier. Neither the one nor the other put anything in writing about the highly important form of authorization given Mr. Bang-Jensen, an authorization upon which the lives of people depended. One riddle leads to another and they all amount to overwhelming evidence of the existence of an incredible mess in the Secretariat. If such thing is possible in matters of life and death what can we expect in less important affairs?

Bang-Jensen did not shun the decisive problem of whether he was authorized or not to promise anonymity and whether he was right or not to deny Mr. Hammarškoeld the list of witnesses. What he says about this in his memorandum of June 14, 1958, is in

fact the core of his whole defense, a defense which is by no means only a "defense" but an offensive act of devastating force against Messrs. Hammarškoeld, Cordier, Protitch, Bunche and the rest of the Secretariat. It is of such force and self-evidence for everybody of sound mind, even for legally trained minds, that the Secretariat will not be able to live down its shame in years to come. The voice of world conscience is still soft, but may well break out in a storm of indignation about judicial crimes of such magnitude in the United Nations.

In the last analysis, the gross miscarriage of justice as exemplified by Bang-Jensen in his Chapter B of his memorandum of June 14, 1958 may well lead to an amendment of the Privileges and Immunities Act, passed by the American Congress. The pertinent passage in his memorandum reads:

*"The binding nature of the assurance to the witnesses irrespective of whether authorized or not. [Emphasis his.]"*

"Even assuming that I had been given no authorization to give any promise to the witnesses as to the extent of their anonymity, you as Secretary General, as well as I, would still be bound legally as well as morally by the promises which actually I have given. As I pointed out in my memorandum to you of 22 November 1957:

"As I understand it, you and Dr. Protitch now maintain that you made no arrangement to provide who in the Secretariat should be allowed to know the names of the witnesses and that I was not entitled to promise that nobody in the Secretariat but I would know their names. To this I can first of all say, that I was informed at the time that the matter had been thoroughly

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discussed with and approved by you. At the present time it is not necessary to go into details with regard to this point — unless you desire so — *since it is of no consequence* [*Emphasis by the author*] for the legal reasons which prevent me from handing the list over to you.

"Let us assume — which I do not for a moment admit—that Dr. Protitch is right when he now says that I must have misunderstood what was agreed on. This does not change the fact that many witnesses have been promised that nobody in the Secretariat but I would know their names, that several witnesses made this a condition for testifying, that two of them for *very definite reasons* [*Emphasis by the author*] which they specified, made it a condition that you in particular would not know their names; there were also other witnesses who gave reasons for their lack of confidence in you and certain other members of the Secretariat.

"To repeat: A promise was given to the witnesses on behalf of the United Nations by an officer of the Organization. There was no reason for the witnesses to doubt that he was authorized to do so. Whether he actually was authorized or not is of no legal consequence. In the circumstances, all lawyers, I should think, will agree that the United Nations and I, legally, as well as morally, are bound by this promise, and that it cannot be modified without the consent of the witnesses themselves.

"Dr. Protitch has not been able to show me how this legal situation can be circumvented. I trust that you will let me know if you can."

Mr. Hammarskjöld never answered this memorandum. He did not even

acknowledge its receipt. Nor did the Gross Committee and the Joint Disciplinary Committee give any sign that they were aware of this morally as well as legally basic problem. Did they not grasp it, or did they not want to see it because they must have known they could never dissolve it to the advantage of Mr. Hammarskjöld? Nobody ever tried to tell Mr. Bang-Jensen why he should not be bound — morally and legally — by his solemn promise.

The next, hardly less important chapter in Bang-Jensen's memorandum of June 14, 1958, deals with the charge that he had constantly made "unfounded and false" allegations as to sabotage against the Special Committee on Hungary.

In this chapter he recalls the many occasions when he had offered evidence concerning the sabotage of the Hungary Committee's work, but repeatedly was not allowed to present it. On one occasion he was even threatened by one of the Under Secretaries with disciplinary action and dismissal if he "continued" to bring new examples of sabotage to Mr. Hammarskjöld's attention. He also quotes Mr. Bunche who had, as we know, refused to receive the evidence with the self-explanatory remark: "It would be ridiculous to spend even five minutes to look at it."

And then Bang-Jensen deals extensively and explicitly with the Secretariat's constant refusal to give him access to the documents necessary for his defense. Among those papers requested by him were the transcripts of all testimony on which the charges against him were based, transforming his administrative trial into a trial in the dark. He says: "It seems somewhat

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difficult to understand how you can charge that I am making 'unfounded' and 'groundless' allegations, while you concurrently deprive me of the documents to substantiate my allegation."

In the next chapter of his great defense brief, Bang-Jensen turns, at last, to what I have always considered to be the cardinal point of the whole case, the incessant violation of the principle of "due process of law."

He charges — and there is no doubt about the correctness of his statement — that the Joint Disciplinary Committee had prepared its "so-called 'report'" in complete secrecy and that the Committee "has neither heard me nor received any answer from me to the many serious charges" which Mr. Hammar-skjoeld had preferred against him. He further states that the Disciplinary Committee "took great care by devious means to leave me with the impression that the Committee had accepted my protest, and honoring normal principles of due process, had agreed to rest the case while the question of the documents was being decided by the appeal."

Bang-Jensen then specifically enumerates seventeen violations of the principle of "due process" which I cannot and will not spare the reader of this documented study. For the list is necessary for the reader to be able to understand more clearly, and to judge more thoroughly, the miscarriage of justice in the United Nations under the direct auspices of the Secretary General and the Joint Disciplinary Committee. I quote from Bang-Jensen's memorandum of June 14, 1958:

"1. The whole case has been irreparably prejudiced by the Gross Committee, established by you on 4 De-

cember 1957 in circumvention of the Staff Rules, which has usurped the advisory functions of the Disciplinary Committee and the Joint Appeals Board.

"2. You forwarded the final Gross 'report' with its recommendation that I should be dismissed for 'gross misconduct' to the Disciplinary Committee as the presentation of your case against me, thereby in fact advising the Disciplinary Committee what you wanted it to advise you.

"3. The case was not even properly referred to the Disciplinary Committee by a communication addressed to it.

"4. The Committee was not even convened by you to its first meeting, in accordance with Rule 110.5, but by a person who stepped forward from the panel of Chairman and happens to be the highest ranking of Mr. Cordier's personal assistants.

"5. The Committee knew that you had refused me access to the documents necessary for my defense.

"6. The Committee had received a copy of my request for documents, including the testimony to Mr. Cordier of 9 April, listing 87 items, and could assure itself that none of these by any stretch of the imagination could be said not to be relevant. When, precisely, was the Declaration of Human Rights amended so that the testimony against a man is no longer relevant to his case?

"7. The Committee also knew that many of these documents were not merely relevant but absolutely essential, not merely for my defense but for anybody who sincerely wanted to know the facts in the case (for instance, the documents referred to in this statement, paragraphs 8, 9, 12, 26, 38, 54, 64 and 96.)

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"8. The Committee knew that, on 19 April, I had appealed your failure to make the testimony and documents available *prior* [*Emphasis his*] to the proceedings in the Disciplinary Committee, in accordance with due process and your explicit assurance.

"9. The Committee did not begin its so-called proceedings until five days later, when it, in its own words, on 24 April, held its 'first meeting in executive session' and 'began consideration of the charges preferred against you.'

"10. The Committee later took care, as my annexed memorandum to it of 7 June clearly demonstrated, to make me believe that it was not proceeding but had accepted my protest and was resting the case in accordance with ordinary principles of due process.

"11. The Committee thereby made certain that it could not risk receiving an answer from me to the charges against me.

"12. The Committee thus submits its 'report' to you without ever having heard me or having received any answer from me.

"13. The Committee, nevertheless, largely bases its conclusions on the assertion that, since I have not answered, it had to presume that the various contentions and allegations of the Administration are true.

"14. The Committee had papers before it, the contents of which still are unknown to me.

"15. The legal opinion strongly in my favor, submitted by the International League for the Rights of Man to the Disciplinary Committee through the Committee's Secretary, apparently never reached the members of the Committee.

"16. Two of the three members of

the Committee are personal assistants of Mr. Philippe de Seynes, who is one of the signers of the Gross 'report.'

"17. One of the members had discussed the case in advance and had made shocking and prejudicial statements, as indicated in the end of my annexed memorandum of 7 June."

This is Bang-Jensen's summary of the more important violations of "due process." Every unprejudiced reader will, I am sure, agree that almost every single one would suffice in any American court of appeals to mark the proceedings as a gross miscarriage of justice, with the result that a new trial would be ordered.

### X

#### THE END OF THE ROAD

THE LAST U. N. administrative body to deal with the Bang-Jensen case was the Administrative Tribunal. It proceeded — as distinguished from the Gross Committee and the Joint Disciplinary Committee—in public, in bright daylight. The Administrative Tribunal consisted of Mme. Suzanne Bastid, President; Lord Crook, Vice President; the Honorable R. Venkataram, member; and Mr. Omar Loutfi, alternate.

To this Administrative Tribunal Bang-Jensen had filed his appeal of August 29, 1958 from which we have quoted before. It was an appeal against the Secretary General's failure to offer him due process prior to the proceedings of the Joint Disciplinary Committee. We have to quote this document again. Through it, Bang-Jensen requested the Administrative Tribunal:

"1. To find that the proceedings of the Joint Disciplinary Committee in the Applicant's case were 'illegal and invalid';

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"2. to order the Secretary General to make available to Applicant all documents he 'might request' as necessary for the preparation of his defense;

"3. to order the Secretary General to allow Applicant reasonable time to prepare his written answer to the charges made against him;" and

"4. to order the Secretary General to ensure that the Applicant's case is not dealt with by the Joint Disciplinary Committee until it is properly presented to the Committee by the Administration."

The Tribunal deliberated the case until December 5, 1958. In its verdict of that day, it stated:

"It is regrettable that the Applicant has put himself in a difficult position by his own conduct. The Applicant remained *ex parte* [*Emphasis the tribunal's*] in the proceedings before the Joint Disciplinary Committee on the ground that the documents requested were not made available to him. The Applicant has thereby denied himself an opportunity for his defense being considered on its merit by the Joint Disciplinary Committee and also by appropriate appeal authorities in due course.

"In conclusion the Tribunal finds that the plea of lack of due process at various stages of the disciplinary proceedings against him is not substantiated.

"The application is hereby dismissed."

We can gather from this that the Administrative Tribunal acted as a rubber stamp of the Gross "reports," exactly as the Joint Disciplinary Committee had done.

Since the deliberations of the Administrative Tribunal took place in bright daylight, the correspondents had

an excellent opportunity to watch the proceedings, among them the testimony given by Mr. Cox who represented the U. N. Secretariat. This gentleman stated categorically that not even a Danish Court would have given Bang-Jensen access to such documents as he may have considered pertinent. He also said that Bang-Jensen could not justify his accusation by referring to documents in the possession of the opponent. This was, of course, irrelevant since Bang-Jensen was not only denied access to documents in the hand of the opponent, but had lost access to his own documents when he was suspended and was refused permission to enter his own office and to remove his own documents! This led to the fact that the documents of both, accuser and accused, ultimately wound up in the sole possession of the accuser, a fact completely ignored by the Gross Committee, the Joint Disciplinary Committee, and by the Administrative Tribunal as well.

Mr. Bang-Jensen's lawyer, Clifford Forster, retained for him by the International League for the Rights of Man, stressed, in answering Mr. Cox, the point that the whole case was a matter of due process and that Bang-Jensen must have the opportunity to prepare his defense as he saw fit. Mr. Forster suggested the creation of a special committee to decide the relevancy of the documents asked for by Bang-Jensen.

Bang-Jensen himself answered Mr. Cox by stating that Mr. Cox's argumentation showed how little is known about the case, even by U. N. officials. He continued by saying: "I have discussed the case with prominent judges and professors of law in Denmark. They were all shocked. If this matter is allowed to stand, will anybody in the

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U. N. ever dare to mention irregularities to their superiors?"

With this remark, Bang-Jensen hit one of the most important implications of the case. One of the inferences to be drawn from all the proceedings against Bang-Jensen by his colleagues must indeed amount to the warning not to criticize anything within the U. N. bureaucracy, no matter how wrong, subversive, or even dangerous to their own nation's security it may be. Such an attitude of U. N. employees will be the only visible one; it will also be backed and encouraged by the prevailing U. N. rule that an international civil servant, serving the U. N., has first to be loyal to the world organization to which alone he has sworn allegiance, and not to his fatherland. That the Soviets have never accepted such a rule goes without saying. In the future we can expect, as a direct result of the Bang-Jensen case, an increased tendency to abide by this rule. Besides, the international civil servants' only concern will be job security and an undisturbed receipt of their salary checks.

The proceedings before the Administrative Tribunal reached a visible climax when, on November 26, 1958, Andrew Cordier appeared as a witness. Mr. Cordier immediately went deep into the substance of the case, which, of course, was not at all to be considered by the Tribunal. In a lengthy speech, recapitulating the whole case, naturally in the Secretariat's version only, Mr. Cordier leveled his accusations against Bang-Jensen.

When Bang-Jensen tried to answer Mr. Cordier, Mme. Bastid, President of the Tribunal, immediately interrupted him, cutting him short and pointing out that his answer concerned substan-

tive matter and was, therefore, inadmissible. And she admonished him to stick strictly to the formal matter under discussion. Thus, the Tribunal allowed Mr. Cordier to appear in the role of the accuser, to dwell for a considerable time on substance rather than procedure, but prevented the accused from doing the same in his own defense.

### XI

#### SOME FINAL COMMENTS

DR. GUNNAR LEISTIKOW, U. N. correspondent for several Danish newspapers, a Dane himself and a friend of Bang-Jensen's, one of the best experts on this case I have ever met, wrote what appears to me to be the final verdict on these procedures in an article in "*Aarhus Stiftstidende*" of December 7, 1958. From this article, I quote the following parts:

"The most remarkable comment to the whole case was already formulated nine months ago. At that time a colleague of Bang-Jensen's said to me, if I remember correctly:

"'Bang-Jensen cannot win. He lost the very day Hammarskjöld lent his name to the attacks against him in the Gross Report. Herewith, the results of all further investigations were predetermined. Bang-Jensen's case is hopeless, no matter whether he goes through with it, all the way up the Administrative Tribunal which is formally independent of the Secretary General. There is just nobody in the whole organization who is willing to start a quarrel with Mr. Hammarskjöld after he got the reputation of a professional angel of peace. He is a holy cow. You can't buck the system in the U. N. After all, no-

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body wants to shoot Santa Claus.'

"The Secretariat has won. Bang-Jensen has lost. But not only he has lost. The United Nations has lost, the whole world has lost. Now we shall never get the really satisfactory, thorough, and objective investigation that public opinion all over the world has kept demanding. The cards will not be put on the table.

"It shall never be made clear whether Bang-Jensen was an impossible querulous person who saw saboteurs in every nook and cranny, or whether certain officials had something to hide and very cleverly managed to thwart an investigation that would have put them in the spotlight.

"On the other hand, it has been made quite clear that the U. N. is not the model of law and order for all nations it ought to be by definition and which we had hoped it was. Like Caesar's wife this organization ought to be beyond suspicion. Instead, it is not even able to carry out a strictly objective investigation, because its highest ranks are implicated. That's exactly what is the case.

"Andrew Cordier, who kept shooting from the hip at Bang-Jensen before the Administrative Tribunal, stands accused in public by the '*Schweizer Illustrierte*' as the instigator of the defamation campaign against Bang-Jensen, the instigator who had told the correspondents at the U. N. and others that Bang-Jensen was feeble-minded, a drunkard, a McCarthyite, etc. . . .

"There can be no doubt that it is most damaging to the moral prestige of the U. N. that men like Bang-Jensen have no chance to clear themselves through a comprehensive and objective investigation against the suspicions cast

on them."

With the increasing attention the Bang-Jensen case received in the American as well as in the world press, the U. N. Secretariat felt every day more uncomfortable. In view of the worldwide publicity which — especially in the Scandinavian press — the case has won; and in view of the fact that Bang-Jensen appears already, as predicted by J. Anthony Panuch in his letter to Manfred Simon, as the hero and martyr who preferred death to breaking his word of honor; under these considerations the Secretariat hit upon a new and rather astonishing idea. It suddenly decided — during one of Mr. Hammarskjöld's frequent absences — to issue a so-called "fact sheet" on the Bang-Jensen case in which it simply denied that Bang-Jensen had ever been dismissed for his refusal to hand over the list of the eighty-one anonymous Hungarian witnesses! No more, no less was stated in the "fact sheet" placed on the shelves in the U. N. press room on January 1, 1960, a legal holiday when hardly any reporters appear at the United Nations.

In this "fact sheet" a statement simply read: "He (Bang-Jensen) was not dismissed for refusing to divulge the names of these witnesses." The semantic trick played by the Secretariat consists in the fact that the Secretariat denies something which nobody has asserted.

"Divulge" means, according to Webster, Second Edition: "to spread among the people; to indicate publicly; to proclaim; to publish abroad; to make public; to reveal or to communicate to the public; to tell a secret so that it may become generally known." Since nobody had ever asked Mr. Bang-Jensen

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"to make public" the names on the secret list of witnesses, he could not have been dismissed for not complying with a non-existent demand.

Why then did the Secretariat, in its press release of January 1, 1960 make the nonsensical assertion that he was not dismissed for not "divulging" the names of the witnesses? Obviously, in order to impart the impression that he was not dismissed for refusing to surrender the list. This was the general impression people within and without the United Nations got. "Divulge" only makes sense in the context of the press release if interpreted in the broader sense, not to be found in Webster, of "handing over the list to Mr. Hammarskjöld." But this impression, conveyed by the "fact sheet," the only impression which makes sense, is a contradiction of the well established fact, a complete abandonment of the truth, the well-known truth that Bang-Jensen was dismissed for exactly this persistent refusal of his to hand over the list.

Since, of course, everybody in the U. N. press room interpreted the "fact sheet" as meaning that Bang-Jensen was not dismissed for his refusal to hand over the list, this writer undertook to confront the Secretary General with the strange contradiction between the Secretariat's "fact sheet" and Mr. Hammarskjöld's own letter of dismissal. The confrontation took place at Mr. Hammarskjöld's press conference of March 3, 1960 when the following colloquy, quoted from the official U. N. transcript, occurred:

Mr. Epstein: "While you were away in Africa, the Secretariat issued unexpectedly a so-called list of facts concerning the Bang-Jensen case, in which the following was said: 'He was not dis-

missed for refusing to divulge the names of these witnesses.'

"However, in your letter of dismissal of 3 July 1958, you wrote:

"'You failed to comply with orders first given orally on 9 October 1957 and later in writing from the Secretary General to deliver for safekeeping in the Secretariat papers in your possession relating to witnesses before the Special Committee on the Problem of Hungary. Your conduct as dealt with under charges III and IV indicates so serious a lapse of judgment and a lack of understanding the responsibility of a United Nations official as to indicate that your continued employment by the United Nations would be inconsistent with the maintenance of a high level of efficient service.'

"So it seems that the Secretariat, in a correction sheet, is correcting its own Secretary General. Could you tell us how any such thing is possible?"

The Secretary General: "It is possible to show anything if you quote things out of context, Sir. As you have this good knowledge of the letter of dismissal, you can read it in its entirety and it will confirm what is said in the fact sheet."

Mr. Hammarskjöld's answer was, if semantics be sufficiently strained, correct; for he had not asserted in his letter of dismissal that Bang-Jensen was dismissed for refusing to "divulge" the names of the Hungarian witnesses. In this case he should have reprimanded the responsible person in the Secretariat for putting out a nonsensical press release. He must have known that the "fact sheet" makes only sense if the word "divulge" is interpreted as meaning at least "to make known to the Secretary General" as it was, of course,

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generally interpreted by the correspondents. Then, however, his answer simply was a denial of the truth, because it has been stated so many times, and not only in Mr. Hammarskjöld's letter of dismissal, that Bang-Jensen was dismissed for, among other reasons, "insubordination" to comply with given orders to hand over the list. Therefore, Mr. Hammarskjöld did not explain the contradiction between two official U. N. documents, which was an outstanding example of the Secretariat's attempt to hoodwink public opinion. Or is it possible that the Secretary General had no knowledge at all of the "fact sheet" released to the press during his absence in Africa? We do not know. Should that be the case, the obviously unjust charge against this correspondent, for having quoted the "fact sheet" "out of context," was probably made just to spare the Secretariat the embarrassing admission of having manipulated the truth, a truth so well known to all who cared to study the record.

With this we are coming to the end of our study. We cannot go much further, in the presentation of many other details of the case, with its involved complexity and legal intricacies. This is, after all, not a presentation for lawyers only; quite the contrary. It is written in order that the average reader may

understand the basic features of the Bang-Jensen case.

What is the lesson to be learned from the Bang-Jensen case? It is that there is only one way to prevent such a tragedy in the future: To force the United Nations to amend its own staff rules. At the same time Congress would have to amend the Privileges and Immunities Act, which is the legal basis for the diplomatic immunity enjoyed not only by the diplomats representing their countries at the U. N., but by the members of the Secretariat too.

As to the amendment of the United Nations' own rules, the General Assembly should adopt a new staff rule, providing for a special watchdog committee in any future proceedings of this kind. It should consist of, among others, members of that U. N. delegation representing the state of which the accused international civil servant is a citizen. This watchdog committee should not only have the right, but the duty, to sit in all sessions of all U. N. bodies concerned with the particular case. Under that rule, in the case of Mr. Bang-Jensen, the Danish delegation to the U. N. would have had the right to exercise some control over the proceedings against Bang-Jensen, proceedings which proved to be the shame and tragedy of the United Nations.

## TIME TABLE OF THE BANG-JENSEN CASE

- January 10, 1957: The General Assembly establishes the Special Committee on the Problem of Hungary.
- June 7, 1957: The Special Committee on the Problem of Hungary approves the final draft of its report without the changes so strongly urged by Bang-Jensen.
- August 16, 1957: Bang-Jensen is relieved of his duties as Deputy Secretary of the Special Committee on the Problem of Hungary and returned to his regular tasks in the Department of Political and Security Council Affairs.
- October 9, 1957: A State Department inquiry is addressed to the Secretary General concerning a Hungarian refugee who had testified before the Special Committee. (Never before that day was Bang-Jensen requested — and later “instructed” to hand over the list of the eighty-one Hungarian witnesses.)
- December 4, 1957: Bang-Jensen is suspended as an employee of the U.N. Secretariat (With full pay.)  
  
The Secretary General appoints the Gross Committee. It worked from December 6, 1957 until February 7, 1958.
- December 21, 1957: The Gross Committee issues its first Interim Report and releases it to the press.
- January 15, 1958: The Gross Committee issues its second Interim Report and releases it to the press.
- January 24, 1958: The burning of the list of eighty-one Hungarian witnesses in a sealed envelope takes place on the roof of the U.N. building in New York.
- February 8, 1958: The Gross Committee issues its final Report, with a recommendation of Bang-Jensen's dismissal. The Report was not released to the press, but was the subject of a press conference.

## The Bang-Jensen Tragedy

- February 19, 1958: Bang-Jensen is notified by the Office of Personnel that charges of grave misconduct would be filed against him to be investigated by the Joint Disciplinary Committee.
- March 4, 1958: Bang-Jensen applies for the right to be represented by independent counsel, and for the right to access to all documents necessary for his defense.
- April 9, 1958: Bang-Jensen, in a memorandum to Andrew Cordier, enumerates eighty-seven items on which he requests documents.
- May 10, 1958: Bang-Jensen files an appeal with the Joint Appeals Board, contesting the following administrative decision:
1. Failure to produce documents requested by him on April 9, 1958.
  2. Failure to allow him time to find and instruct counsel for the preparation of his answer.
  3. Failure "to make certain" that his case should not be dealt with in the Disciplinary Committee until the facts had been completed and, in particular, while his appeal was pending before the Joint Appeals Board.
- May 29, 1958: The Joint Appeals Board reports to the Secretary General that it is not competent to consider Bang-Jensen's appeal.
- June 3, 1958: Bang-Jensen notifies the Joint Disciplinary Committee that he will appeal to the Administrative Tribunal.
- June 5, 1958: The Joint Disciplinary Committee unanimously finds that Bang-Jensen should be dismissed for misconduct.
- June 6, 1958: The Secretary General forwards the report of the Joint Disciplinary Committee to Bang-Jensen, giving him one week to answer the charges in the committee's report.

## The Bang-Jensen Tragedy

- June 7, 1958: Bang-Jensen counters by stating that he is unable to do so without the production of the requested documents, necessary for his defense.
- June 14, 1958 Bang-Jensen submits to the Secretary General his most detailed memorandum, a quintessence of his defense, outlining his allegations concerning the Special Committee on the Problem of Hungary and his various protests against the persistent violation of the principle of "due process of law."
- July 3, 1958: The Secretary General notifies Bang-Jensen of his dismissal for misconduct.
- August 29, 1958: Bang-Jensen files his appeal to the Administrative Tribunal. It contains twenty five specific charges.
- December 5, 1958: The Administrative Tribunal pronounces its judgement: Bang-Jensen's appeal to the Tribunal is dismissed.
- November 26, 1959: Bang-Jensen is found dead in a Park in Queens County, New York.
- January 1, 1960: In the absence of the Secretary General, the Secretariat issues a "fact sheet" on the Bang-Jensen case, suddenly stating that he was not dismissed for refusing "to divulge" the names of the Hungarian witnesses.
- March 3, 1960: The Secretary General, confronted with the contradiction between the "fact sheet" and his own letter of dismissal to Bang-Jensen of July 3, 1958, in which he had stated that Bang-Jensen was dismissed for — among other reasons — his refusal to surrender the list of witnesses, declares that there is no contradiction between the two official U.N. documents.

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(Continued from inside front cover)

are still working their hearts out in trying to metamorphose a monstrous deception into the reality of their dreams, the actual organization is hopelessly venal, immoral, and degraded *at every level*. It also shows—what many of us have long suspected—that the driving force behind every act and every decision of importance is a determination to help the Communists and harm their enemies.

This study should be of especial interest, and should serve as a particular warning, to the Liberals everywhere; to those misguided idealists who think they can safely and justifiably "work with" the Communists, for the achievement of that beautiful socialist world which they consider so desirable. For Bang-Jensen was a Liberal, as well as a most sincere and honorable "servant" of the United Nations, and believer in its professed objectives. His various lawyers were all outstanding and even famous Liberals. Yet he and his lawyers became as worms, to be crushed by a brutal heel or scuffed aside by a booted toe, when Bang-Jensen insisted on raising moral principles across the path of Communist purposes. Not all of the "liberal" lawyers in New York, working together, could have saved Bang-Jensen, once Dag Hammarskjöld had made it clear to his sycophantic subordinates that Bang-Jensen was marked for destruction. And when the time comes — as inevitably it must for every honest Liberal — that the Communist ways and the Liberal ways divide, no tireless amount of former service on any "united front"

will save any Liberal from the same tragic fate suffered by Bang-Jensen.

Probably the greatest single asset the Communists have, in the whole world today, is — something we have pointed out many times before — the inability of the fundamentally decent American mind even to conceive of the kind of enemy with which we have to deal. In this restrained and factual record of how pro-Communist forces mercilessly closed in on Bang-Jensen, and of the brazen lies and ruthless methods which they used, Julius Epstein may have helped just a tiny bit in bringing that desperately needed understanding a little nearer. If so, his work will have been doubly worth while. Besides giving to a growing audience the deserved truth, about one steadfast martyr for human honor and decency, he may have turned on a more far-reaching light of tremendous importance.

And one thing is certain. If the American people ever do wake up to what is happening to them, and how, or if they ever come to realize what the United Nations is designed to accomplish and what it is really like, that army of slippery Soviet stooges now so arrogantly running the show will need to scurry homeward fast. Our apathy is extreme, and our patience seemingly inexhaustible. But there are ends to all moods, and limits to all endurance.

We hope that this mildly told story will make you very angry.

Sincerely,

*Robert Welch*

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