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Facts concerning the case of Mr. Bang-
- Jensen. (chronological record)



UNITED NATIONS

New York

December 22, 1959

A Chronological Record of Facts Concerning
Mr. Povl Bang-Jensen's Period of Duty in the Secretariat
Assigned to Serve the Special Committee on the Problem of Hungary
and Subsequent Developments Ending in his Dismissal

The Hearings of the Committee on Hungary

On 10 January 1957 the General Assembly established a Special Committee on the Problem of Hungary composed of representatives of five Member Governments - Australia, Ceylon, Denmark, Tunisia and Uruguay. Its main task was to investigate the facts and report its findings to the General Assembly on "the situation created by the intervention of the U.S.S.R., through its use of armed forces and other means, in the internal affairs of Hungary".

As its Chairman the Committee chose Mr. Alsing Andersen, the representative of Denmark, a leading member of the Danish parliament for many years and a member of Denmark's delegations to the General Assembly since 1948. As Rapporteur it chose Ambassador K.C.O. Shann, the representative of Australia, then permanent delegate of his country to the United Nations and later Ambassador to the Philippines.

The staff needed by the Committee to serve it was, as always, assigned from the United Nations Secretariat. Among the staff so assigned were two officers of the Secretariat's Department of Political and Security Council Affairs - Mr. William M. Jordan, a staff member of British nationality, who was named Principal Secretary, and Mr. Povl Bang-Jensen, a staff member of Danish nationality, who was named Deputy Secretary.

The Committee was refused entrance to Hungary. However it could take oral and written testimony from Hungarian refugees who had been in Hungary during the events of late October and of November 1956 as part of the evidence on which it would base its report.

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It was obvious, from the beginning, that some of these witnesses would wish to testify anonymously because of their fear of reprisals against family or friends still in Hungary.

However this was not a new problem for such United Nations bodies, or for the Secretariat which serves them. Since 1946 the Security Council and the General Assembly have established from time to time committees or commissions of governmental representatives to investigate situations involving "Cold War" and other conflicts between Member States. Such investigations have, on several occasions, involved the taking of testimony from individual witnesses whose identities it was a duty to protect as well as much other information of a highly confidential character. This happened as early as 1946 with the Balkan Commission. It has happened later in connection with such questions as those of Palestine and Korea.

Thus a security system equal to the requirements was established at the very beginning of the United Nations and has been in force throughout its life. During the work of the committees concerned with such questions, the United Nations responsibility for protecting the confidential information received is shared by the representatives of the national governments elected to the committees and by the Secretariat staff assigned to serve them. Thereafter the system provides for the safe custody of all the confidential documentation and records under the personal responsibility of the Secretary-General. During the fourteen years of the life of the United Nations, no government, nor any other responsible source, has alleged that there has ever been a single leak or abuse of such information by the Secretariat.

Between 17 January and the middle of April 1957 the Committee on Hungary held a series of hearings in New York, Geneva, Rome, Vienna and London. It heard a total of 111 witnesses. Of these 81 asked that their identities be protected.

The responsibility for the selection of the witnesses rested with the Committee, and especially with its Chairman, Mr. Andersen, and the Rapporteur, Ambassador Shann. In view of the large number of persons wishing to be witnesses, preliminary interviews became necessary. These preliminary interviews were carried out under the direction of the Committee by the Secretariat. Several staff members were assigned to the task by the Principal Secretary, Mr. Jordan. The Secretariat was authorized by the Committee to tell those witnesses who wished to protect their identities, that the United Nations would undertake to do so.

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Naturally, under the responsibilities given them by the General Assembly, the members of the Committee had the right to know the names of the anonymous witnesses on a confidential basis in order to carry out their duty to evaluate testimony. In practice the other three members of the Committee delegated this responsibility to the Chairman and the Rapporteur, who asked for and received the names of the anonymous witnesses whenever they thought it necessary to the work of the Committee. In addition, the Secretariat staff, including interpreters, who were assigned by the Principal Secretary to conduct preliminary interviews, necessarily knew the names of those witnesses they interviewed on the same confidential basis. The overall responsibility for the Secretariat's part in this process, including protection of the names of the anonymous witnesses, rested with the Principal Secretary.

As Deputy Secretary, Mr. Bang-Jensen's administrative duties included the handling of practical arrangements for the appearance of witnesses. Mr. Bang-Jensen had the task of paying witnesses their costs of travel and per diem. This was done in accordance with an instruction to the United Nations Controller at the beginning of the Committee's work to issue petty cash vouchers without requiring the usual signed receipts in the case of those witnesses who wished to remain anonymous. Mr. Bang-Jensen was authorized to pay such witnesses and to sign the receipts himself, keeping a register which was not to be made available to the Controller's staff for the usual auditing procedures.

Mr. Bang-Jensen conducted preliminary interviews with many of the witnesses. However, three other members of the Secretariat assigned to the Committee either conducted or participated in many of these preliminary interviews and therefore had to know the names of anonymous witnesses. Fifty prospective witnesses were interviewed in Vienna by two other Secretariat staff members and Mr. Bang-Jensen did not participate in these interviews. A number of these witnesses requested anonymity and their wishes were, of course, respected. Later Mr. Bang-Jensen was to claim that the assignment of other staff members besides himself to the conduct of the preliminary interviews was an example of "sabotage" of the Committee's work.

Thus, at the conclusion of the hearings in mid-April 1957 the names of many of the anonymous witnesses were known to the Chairman and the Rapporteur, to the Principal Secretary, and to several of the Secretariat staff assigned to the Committee as well as to Mr. Bang-Jensen, who, in addition, was responsible for keeping the register of payments to witnesses.

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Preparation of the Committee's Report

The Committee and staff returned to New York late in April for the preparation of its report. Primary responsibility for drafting the report rested with the Rapporteur, Ambassador Shann. Members of the Secretariat, as usual, assisted him in the preparation of the various chapters. The drafting and re-drafting continued throughout the month of May 1957. Along with his Secretariat colleagues Mr. Bang-Jensen participated in this process, though his role was a minor one. His main assignment was to work on the draft of the formal introductory chapter, the first of the seventeen chapters of the Report. He also took an interest in the drafts of several other chapters. Later, the Rapporteur, Ambassador Shann, stated that at least five other staff members made a more substantial contribution to the drafting of the Report.

As the draft neared its final form late in May, Mr. Bang-Jensen began to assert that there were serious errors of omission and commission in the parts drafted by others, especially in Chapter VII of the report, which, if not corrected, "would bring the Committee into ridicule".

When most of his points were rejected as groundless by the Principal Secretary and his other colleagues in the Secretariat, Mr. Bang-Jensen went directly to the Chairman and the Rapporteur. On his insistence, they went over his suggested changes with him point by point and rejected almost all of them.

Later the Chairman, Mr. Andersen, had the following to say about this episode:

"After he (Bang-Jensen) had submitted, in response to my request, his many complaints concerning the drafting of a particular chapter, I held a meeting with Ambassador Shann, William Jordan, the Principal Secretary, and those of Bang-Jensen's colleagues who had taken part in its compilation. We carefully went over all the points in which Bang-Jensen saw evidence of 'deliberate sabotage'.

"After the meeting, I informed Bang-Jensen that I had received a satisfactory explanation on all the points, that his suspicions had therefore proved to be unfounded and that he should as a result cease casting suspicions. He did not follow my suggestion, but this does not shake my conviction, namely, that there was no basis for Bang-Jensen's campaign.

"The situation, unfortunately, was that Bang-Jensen, misled by a long period of resentment against his superiors and without the slightest scruples, flung out the most serious charges in consequence of his view that anyone who

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did not share his opinion was sabotaging the work of the committee. He even went so far as to involve Ambassador Shann in his suspicions.

"After the experience that Ambassador Shann and I had at that time with Bang-Jensen, the possibility of working with him came to an end. We had found that his judgment was completely faulty.

"Having an intimate knowledge of the entire matter, I can state that there are no factual grounds whatsoever for his disgraceful accusations."

There followed a scene in the Delegates' Lounge about which Ambassador Shann at the time transmitted to the Secretariat a memorandum dated 30 May 1957. In this memorandum Ambassador Shann stated, inter alia, that Mr. Bang-Jensen had "engaged in the wildest of allegations and threats", had implied that he (Shann) "was incapable of proper judgment as to what was a fit document for presentation to the Committee", and that "his attacks on the Secretary of the Committee were immoderate, including an accusation of dishonesty". Mr. Shann concluded his memorandum as follows:

"I asked the Chairman on one occasion to be excused from a painful discussion which I had previously asked should not take place but was given no assistance to disengage myself. On occasions this would have been physically difficult as Mr. Bang-Jensen grasped me firmly by both arms, spilling his papers on the floor of the Lounge.

- (1) I regard Mr. Bang-Jensen's behaviour, to say the least, as unbecoming to a member of the Secretariat,
- (2) I do not believe that Mr. Bang-Jensen is quite himself,
- (3) I am of the opinion that he has already done considerable harm and that his allegations are largely childish and without foundation,
- (4) Should this situation continue I have no alternative but to raise it at a higher level so that proper disciplinary action may be taken to see that it stops."

The Committee on Hungary approved the final text of its report on 7 June 1957 without the changes so strongly urged by Mr. Bang-Jensen. The latter maintained his position in memoranda dated 6 June, 11 June and 17 June 1957 addressed to the Secretary-General or to his Executive Assistant. These memoranda included such assertions as the following:

"It (the situation) is a methodical attempt to suppress certain essential facts and to insert erroneous facts and contradictions in the report, particularly in the key chapter (Chapter VII)...."

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"Sabotage of the Committee of various kinds has gone on from the very beginning...."

"There is, therefore, reason to fear that 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...."

"It appears that the report still contains all or most of the many serious errors of fact, which, as I have pointed out, can hardly be found by the members themselves but will undermine general confidence in the report and perhaps even make the Committee look ridiculous".

On the basis of the memoranda submitted by Ambassador Shann and by Mr. Bang-Jensen, the Office of the Secretary-General immediately began an inquiry into the conduct of Mr. Bang-Jensen and the allegations made by him. However, Mr. Bang-Jensen left for Denmark on home leave on 18 June and further action was suspended until his return. This was the beginning of a policy of giving Mr. Bang-Jensen every possible chance as a fellow man and as a staff member, a policy which was pursued by the Secretary-General throughout a whole year and four separate and exhaustive inquiries.

Ambassador Shann later wrote that "my feeling is that the Secretary-General has treated Bang-Jensen with kindness and generosity in circumstances which would have sorely tried the patience of many other men".

The report of the Special Committee on Hungary was given to delegations and to the press on 18 June 1957. It immediately received very wide publicity and favorable editorial comment in all those Member countries which had supported its creation and its mandate.

Later the Chairman of the Committee, Mr. Andersen, remarked "that the Committee's report, both regarding contents and form, met with general approval everywhere in the free world, also among Hungarian refugees". In the fall, the General Assembly adopted by a vote of 60 votes in favor, 10 against, and 10 abstentions, a resolution which expressed its appreciation to the Special Committee on Hungary for its work and specifically endorsed the Report it had made.

Mr. Bang-Jensen was on home leave in Denmark from 18 June to 16 August 1957. Upon his return he was relieved of his duties as Deputy Secretary of the Special Committee on Hungary and returned to his regular tasks in the Department of Political and Security Council Affairs.

Mr. Bang-Jensen immediately wrote another memorandum to the Secretary-General (27 August 1957) in which he reiterated his assertion that "most of the serious

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indisputable errors of fact" in the final draft of the report had not been corrected. He recalled his suspicion that "new errors of fact had been introduced in the final draft and further essential facts omitted without the knowledge of the Committee". He also told the Secretary-General that his removal as Deputy Secretary, "I am afraid, is likely to have the effect of a green light to further efforts to sabotage the Committee".

The Secretary-General requested an Under Secretary, Dr. Ralph Bunche, to make another effort to find out what evidence, if any, existed for the allegations of sabotage and dishonesty made by Mr. Bang-Jensen. There followed a series of interviews in which Mr. Bang-Jensen persisted in his allegations but failed to support them with any substantial evidence.

The List of Witnesses

On 9 October 1957 a confidential inquiry was addressed to the Secretariat regarding a Hungarian who was faced with deportation proceedings from the United States and who wished to prove in his own defense that he had testified anonymously before the Special Committee on Hungary. Mr. Bang-Jensen then told his superiors for the first time that he had retained in his personal possession highly confidential papers relating to the work of the Special Committee including, apparently, a register of payments to witnesses who had appeared before the Committee anonymously.

Mr. Bang-Jensen was first requested, and then formally instructed, to deliver all such papers for safekeeping under seal by the Secretary-General in accordance with unvarying practice. This he refused to do on the extraordinary ground then alleged also for the first time that it had been agreed that "as far as possible, no one else in the Secretariat should know the names of the witnesses. This meant, in fact, that I was made an irrevocable trustee, holding the names."

Then and later, Mr. Bang-Jensen maintained that he personally had become the "irrevocable trustee" for all the 81 names of the witnesses who wished to remain anonymous, though admitting that several of his colleagues in the Secretariat had interviewed many of these witnesses and taken their names. He said that he had promised "many witnesses" that he alone in the Secretariat would know their names and that "several witnesses" had made this a condition for testifying.

The other Secretariat staff members who interviewed witnesses all said that not a single one of those who wished to remain anonymous had asked that only the man who interviewed them should know their names. They only wished to be assured that the United Nations would protect their identities.

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No such instructions or authority as those alleged by Mr. Bang-Jensen had ever been given or would have been given to any individual member of the Secretariat. In response to inquiries by the Secretary-General the Chairman, Mr. Andersen, and the Rapporteur, Ambassador Shann, replied that they had never heard of such a claim before and that the responsibility for the safekeeping of all documents of the Committee on Hungary obviously belonged to the United Nations, not to any individual staff member. Ambassador Shann not only characterized as false Mr. Bang-Jensen's claim to have been made an "irrevocable trustee" but wrote that if Bang-Jensen had been an official of the Australian Government he would have been guilty of a misdemeanor under law for retaining such confidential official documents in his personal possession.

On 4 December 1957 Mr. Bang-Jensen was suspended without prejudice and with full pay. Simultaneously a special committee of investigation was appointed by the Secretary-General to make a thorough review of all aspects of Mr. Bang-Jensen's assignment to the Special Committee on the Problem of Hungary. This committee consisted of Mr. Ernest A. Gross, former Deputy Representative of the United States to the United Nations, as Chairman, Mr. Philippe de Seynes, Under Secretary for Economic and Social Affairs, and Mr. C.A. Stavropoulos, the Legal Counsel of the Secretariat.

The review by this Investigating Committee was to cover his conduct toward his Secretariat colleagues and the Chairman and Rapporteur throughout the work of the Committee, including the hearing of witnesses, the drafting of the report and his charges of sabotage and dishonesty in that connection, as well as the question of the secret papers he had retained in his personal possession.

Meanwhile the Assembly's Committee on Hungary reconvened in New York. On 17 December 1957, this Committee made the following unanimous statement:

"At the conclusion of its meeting, the attention of the Committee was drawn to the question of the custody of certain documents relating to the work of the Committee, and the Committee reached the conclusion that all documentation should remain in the custody of the Secretary-General as the only way in which complete security could be afforded for these documents, as the experience of twelve years has demonstrated."

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The Investigating Committee appointed by the Secretary-General worked from 6 December 1957 to 7 February 1958, making two interim reports and a final report. It received oral and written statements from Mr. Bang-Jensen and his legal counsel as well as statements from the Chairman and Rapporteur of the Committee on Hungary and from officials of the Secretariat, including Mr. Bang-Jensen's colleagues assigned with him to the staff of the Committee on Hungary.

As to the papers which Mr. Bang-Jensen had retained in his possession, the Investigating Committee reported:

(1) Agreement with the judgment (mentioned above) of the Special Committee on Hungary that the custody of the Secretary-General was the only way in which complete security of such documents as the register of witnesses which Mr. Bang-Jensen had retained in his personal possession could be assured.

(2) A recommendation, nevertheless, that the papers, which Mr. Bang-Jensen continued in any case to refuse to deliver for safekeeping to the Secretary-General, should be destroyed. This was based on the following considerations:

(a) Doubts as to the security of these papers while they were in Mr. Bang-Jensen's personal possession and therefore of their continuing validity as confidential UN documents. The following is a quotation from the second interim report of the Investigating Committee on this aspect:

"In his interviews with the Committee, Mr. Bang-Jensen revealed an ignorance of rational security procedures. He told the Committee that when travelling he usually carried the papers on his person. When he went out in the evening, and felt they might not be safe on his person, he would 'conceal them in the hotel room in some odd manner.' When asked what would have happened to the papers if some accident had befallen him when he was carrying the papers about on his person, he replied merely that he had felt some 'worry' on this score. He has refused to say where the papers are maintained at the present time. Even if they are physically in some relatively secure place, there is continuing risk that, in the event of his death or disability, the papers might pass into the control of other unauthorized persons. These considerations have been pointed out to him, but without evoking any apparent understanding of their significance."

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(b) The anonymous witness who had wished to prove that he testified before the Special Committee on Hungary in order to save himself from deportation from the United States had been able to do so through a comparison of his recollection with the verbatim records of his testimony in the custody of the Secretary-General and such a procedure would be available for similar cases in the future. This disposed of one reason for concern which had previously been thought to rule out the destruction of the papers in question.

The Secretary-General accepted the recommendation of the Investigating Committee that the papers in Mr. Bang-Jensen's possession be destroyed after consulting the Members of the Special Committee on Hungary, who agreed in the light of the insecure manner in which Mr. Bang-Jensen had kept the papers. On 24 January 1958, in accordance with procedures established by the Secretary-General, Mr. Bang-Jensen brought sealed envelopes to UN Headquarters where they were burned in his presence and that of UN officials. At the same time Mr. Bang-Jensen gave the Secretary-General written assurance by letter that he had delivered for burning all papers in his possession relating to witnesses who appeared anonymously before the Special Committee on Hungary, and that he had not retained any copies of those papers, and that, to the best of his knowledge, no such copies were in existence.

Findings of the Investigating Committee

As a result of its review of the whole record of Mr. Bang-Jensen's actions in relation to the work of the Special Committee on Hungary, the Investigating Committee found that continued employment of Mr. Bang-Jensen would be incompatible with the best interests of the United Nations for the following reasons, among others:

- 1) His charges of "sabotage" of the work of the Committee on Hungary were unsupported and groundless. Mr. Bang-Jensen had been given repeated opportunities to back up his charges with some substantial evidence and had failed to do so in a single case. Both the Chairman and the Rapporteur of the Committee on Hungary had declared there was no basis whatever for these charges and had expressed their satisfaction with the loyal and efficient services the Committee received from the Secretariat, except for the behavior of Mr. Bang-Jensen himself during the final stages of the drafting of its report.
- 2) Nevertheless Mr. Bang-Jensen persisted in repeating unfounded suspicions and insinuations of dishonesty and sabotage against his colleagues in the Secretariat which not only violated the standards of conduct required of an international civil servant, but any rational standards of behavior and fairness toward the honour and good name of colleagues.

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3) He had been insubordinate in refusing to obey instructions not to harass the Chairman and Rapporteur of the Committee on Hungary in late May and June and on other occasions, including his refusal to deliver papers relating to the anonymous witnesses for safekeeping by the Secretary-General.

4) His acts and statements had shown a marked inclination to see duplicity everywhere, especially on the part of those who disagreed with his opinions; a readiness to impute impropriety and dishonesty to others, on the basis of strained inferences from facts which had reasonable and proper explanations, but which in his mind were distorted into circumstantial evidence of wrongdoing; and a disinclination to adjust himself to established practices or to accept orders with which he disagreed.

In the light of the last paragraph above the Investigating Committee suggested that consideration be given to application of a staff rule which states that "a staff member may be required at any time to submit a medical certificate as to his condition or to undergo examination by a medical practitioner named by the Secretary-General". The Investigating Committee reported that it had discussed with Mr. Bang-Jensen's counsel the desirability of a medical examination, but was advised that Mr. Bang-Jensen was not prepared at that time voluntarily to submit to such an examination. The suggestion, therefore, was not acted upon.

Further Proceedings

On 19 February 1958 formal charges of grave misconduct were filed against Mr. Bang-Jensen. These were communicated to him together with all the documents relevant to the charges including the report and annexes of the Investigating Committee. In the meantime his status as a suspended staff member receiving full pay was continued.

Under the staff regulations of the United Nations a standing body known as the Joint Disciplinary Committee is established to consider such charges and the defense made against them by the staff member concerned and then to present its conclusions to the Secretary-General.

The Joint Disciplinary Committee considered the case from 20 March to 5 June 1958. During the course of its proceedings it acceded to several requests for delays (totalling 44 days) by Mr. Bang-Jensen beyond the time limits set under the rules for such proceedings.

Mr. Bang-Jensen also requested the Administration to make available to him 87 additional documents and papers, some of which had never existed. This request was turned over to the Joint Disciplinary Committee so that it could make a determination of the relevancy of the documents to Mr. Bang-Jensen's defense. Despite

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several requests to do so, Mr. Bang-Jensen failed to make any attempt to support the relevancy of any of the documents, either orally or in writing. Instead he announced his intention of taking an appeal against the Joint Disciplinary Committee to higher authority on the grounds of denial of "due process".

After waiting a long time and giving Mr. Bang-Jensen repeated opportunities to defend his position, the Joint Disciplinary Committee finally proceeded with its examination of the case on the basis of the written evidence from Mr. Bang-Jensen and from other sources already in its possession, and in Mr. Bang-Jensen's, and reported its conclusions to the Secretary-General on 5 June 1958.

On 6 June 1958 the Secretary-General sent Mr. Bang-Jensen a copy of the report and gave him a further opportunity to submit to the Secretary-General directly any reply he wished to make on the substance of the charges as well as on the procedures that had been followed.

Mr. Bang-Jensen's replies to the Secretary-General of 7 June and 14 June 1958 were largely procedural. The Secretary-General took the replies fully into account before deciding to dismiss Mr. Bang-Jensen for the reasons set forth in his dismissal letter to him of 3 July 1958.

The dismissal was based, in the first place, upon the conduct of Mr. Bang-Jensen toward his colleagues in the Secretariat. On this point Mr. Hammarskjöld said:

"I have reviewed the evidence on which the Committee based its unanimous conclusions as to your persistent and unfounded charges against officials of the Secretariat, and I find that this evidence fully substantiates the charge of misconduct made against you. Further, I find none of the specific examples in your statement of 14 June 1958 -- most of which were contained in prior memoranda considered by the Joint Disciplinary Committee -- substantiating in any way your reiteration of these defamatory assertions. I am fully persuaded by paragraphs 67 - 69 in the Conclusions of the Joint Disciplinary Committee as to the incompatibility of your behaviour with the standard of conduct to be expected of a United Nations official. I particularly concur in their conclusion that behaviour such as yours in making unsubstantiated accusations against individual colleagues, or vaguely indicated groups of colleagues, cannot be tolerated or condoned in the Secretariat. Condonation of such behaviour would, at the very least, impede the proper exercise of judgment by responsible officials and would rapidly destroy the mutual confidence among colleagues which is the condition of our collective effort and, thus, of the effective existence of the service itself."

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In the second place the Secretary-General found that Mr. Bang-Jensen's "behaviour toward the Rapporteur (of the Special Committee on Hungary) by itself constitutes sufficient grounds for dismissal for misconduct of any member of the Secretariat".

The Secretary-General also found that Mr. Bang-Jensen had acted improperly and without authority in giving assurances to any witnesses that he alone in the Secretariat would know their names, as well as in refusing to deliver for safe-keeping by the Secretary-General papers in his possession relating to the witnesses. In this connection the Secretary-General stated:

"With respect to your refusal to comply with my written instruction to deliver the papers in your possession for safekeeping, I am aware that you have repeatedly stated that you were legally and morally incapable of complying with this order because of your promise to certain witnesses. Any such promise which you might have made could in my view only have been the result of a wholly improper assumption of authority on your part which at best revealed a most serious and indeed dangerous lack of judgment, the more so if, as you claim, you did induce witnesses who would not otherwise have testified to do so because of this promise. It is further my view that any moral reservations which might have prevented you from obeying my instructions do not ameliorate the impropriety of your conduct as a member of the Secretariat in refusing an order by the Secretary-General relative to official papers. It is my view that if you considered your clear official duty to acknowledge my authority in Secretariat matters to be in conflict with your private moral convictions arising from an unauthorized assumption of authority, it was your duty to resign from the service."

The Secretary-General ordered that Mr. Bang-Jensen be given three months' pay in lieu of notice, together with a special termination indemnity and accumulated pension payments, the total amounting to some \$29,000.

On 29 August 1958 Mr. Bang-Jensen filed an appeal to the United Nations Administrative Tribunal. The Tribunal is composed of members elected by the General Assembly and is the highest Court of Appeal in civil service cases involving staff members of the United Nations and the Specialized Agencies.

Mr. Bang-Jensen requested the Tribunal to find that the proceedings of the Joint Disciplinary Committee were illegal and invalid; to order the Secretary-General to make available all documents he "might request" as necessary for the proper preparation of his defense; to order the Secretary-General to allow him reasonable time to prepare his written answer to the charges made against him;

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and to order the Secretary-General to ensure that his case is not dealt with by the Joint Disciplinary Committee until it is properly presented to the Committee by the Administration."

The Tribunal considered the appeal in oral and written proceedings which were concluded on 30 November 1958 and returned its judgment on 5 December 1958. It found that the "plea of lack of due process at various stages of the disciplinary proceedings against him (Bang-Jensen) is not substantiated. The application is hereby dismissed."

With particular reference to Mr. Bang-Jensen's request for additional documents -- the main ground for his appeal -- the Tribunal had this to say:

"Though the substance of the charges are not directly before the Tribunal, yet, in order to appraise the validity of the request for the documents made by the Applicant, it becomes necessary to refer to the substance in brief. The memorandum dated 19 February 1958 contains among other things two main charges, one relating to the Applicant's conduct and dealings with the Chairman and Rapporteur of the Special Committee on Hungary and to his charges of sabotage and dishonesty levelled against Secretariat officials, and the other relating to his failure to obey instructions on several occasions, more particularly with regard to the delivery of documents to the Administration. The evidence in support of the charges has been detailed in the said memorandum and it is common ground now that all the documents relied on by the Administration in support of the charges were made available to the Applicant. At the meeting on 26 November 1958, the Tribunal was assured that the Applicant was given the documents and annexes to the Gross Committee Report on which the charges were based. The Tribunal is of the opinion that the normal requirements of due process are met when the Applicant is given the material on which the charges are framed. If the Applicant wanted further material, he should satisfy the authorities before whom proceedings are pending, with regard to its relevance to the proceedings."

The Administrative Tribunal considered that it was "regrettable that the Applicant had put himself in a difficult position by his own conduct". The Tribunal's judgment was unanimous. It was composed of the following: Madame Paul Bastid, President; Lord Crook, Vice-President; the Honorable Mr. R. Venkataraman; Mr. Omar Loutfi, alternate.

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On 31 July 1958, soon after Mr. Bang-Jensen's dismissal, Ambassador Shann, the Rapporteur of the Special Committee on Hungary, issued the following statement:

"I feel I should make what small contribution I can to setting the record straight in the unhappy case of Mr. Bang-Jensen and his contribution to the work of the UN Committee on Hungary. My views on the question of his withholding the names of witnesses have already been made public, and I would only wish to add on this aspect of the case that Mr. Bang-Jensen has attracted to himself a great deal of quite undeserved sympathy. It now seems that there is a body of opinion which holds the view that Bang-Jensen was the main draftsman of the report, that it was he who inspired us in our work and that he stood between the report and sinister efforts to sabotage it.

"Such statements are the purest invention and I cannot believe that Mr. Bang-Jensen has put forward such claims himself, as he knows them to be far from the truth. For the most part Bang-Jensen's functions in relation to the work of the Committee were of an administrative rather than substantive character. While his functions relating to the orderly presentation of witnesses had some importance, I would assert quite flatly that at least five other members of the Secretariat made a much more substantial contribution to the report itself than did Bang-Jensen. I can go further and state that during the last weeks of the drafting of the report, about which I think I can claim to be much more intimately acquainted than Bang-Jensen, his activities were far more of a hindrance to us than a help. I personally spent many hours examining very carefully his allegations of errors and omissions in the report, and I listened with care to what he told me about sabotage, although I questioned his judgment in so doing. I, and later the Chairman of the Committee, satisfied myself that his allegations were wild and inaccurate.

"The responsibility for the draft put before the Committee lay with me as Rapporteur, guided as I had been throughout our work by the view of my four colleagues. I was satisfied then that what had been done was an honest, accurate and objective treatment of the mass of facts that we had before us. I remain of this view.

"It is distressing that what has been done in good faith should be called into question by the statements of someone who did not have any primary responsibility for drafting, who allowed his personal dislike for others on the Secretariat to get the better of his good sense, and who was, in my view, unwell at that time.

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"I hope this thing can be put in its proper perspective. A great deal of loyal and capable work was done by the Secretariat in the drafting of this report. But it is not the Secretariat which bears the responsibility for what appears in a document of this kind. It was the representatives of governments on the Committee, all of them men of some experience in such matters, who were required to make up their minds as to what constituted the relevant facts of what happened in Hungary, and the conclusions to be drawn therefrom.

"We were unanimous in our views. We were not subjected to sabotage or pressure of any kind. Whatever the status of the report may be is the responsibility in the first instance of the Committee and, in the final analysis, of the General Assembly of the United Nations, which endorsed it."

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UNITED NATIONS

New York

A LIST OF FACTS ABOUT THE UNITED NATIONS
AND THE CASE OF MR. BANG-JENSEN

In the case of Mr. Povl Bang-Jensen many questions and some criticism have been addressed to the United Nations concerning its treatment of a former staff member. These reflect a continuing and widespread misunderstanding of the case. Some of the facts have been misrepresented and others are little known. In particular, widely published reports have created the false impression that he was dismissed from the service of the United Nations because he refused to divulge the names of the 81 witnesses who testified anonymously before the United Nations Committee on Hungary.

It has not been the wish of the United Nations to reopen the record concerning a man who has died. However, there is also a duty to the Organization itself, to those who serve it, and to all who believe in its aims. In order to set the record straight and to answer the questions raised, it is necessary to recall the principal facts (which are to be found in official records long available) and to point out some of the most frequent misstatements of these facts.

The facts concerning the case of Mr. Bang-Jensen are as follows:

First -- He was never the sole custodian of the names of the 81 witnesses who testified anonymously before the United Nations Special Committee on Hungary in 1957, as will be evident from what follows later.

Second -- He was not dismissed for refusing to divulge the names of these witnesses.

Third -- He was not a member of the Committee on Hungary. He was one of several subordinate staff members of the Secretariat assigned to serve the Committee, which was composed of Representatives of Governments elected by the General Assembly. His assignments were primarily administrative. He was not responsible for the Committee's Report on Hungary to the General Assembly. On the contrary, he attacked the Report, Committee members responsible for it and Secretariat colleagues who had assisted in its preparation. This Report received very wide publicity, as well as favorable editorial comment in all the countries which supported a United Nations

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investigation of what had happened in Hungary in the fall of 1956. It was overwhelmingly endorsed by the General Assembly in September 1957.

Fourth -- Mr. Bang-Jensen was not summarily dismissed. He was given every chance throughout the period of a whole year and four separate and exhaustive inquiries to make his case fully known and understood.

Fifth -- He was finally dismissed in July 1958 for grave misconduct (not insubordination) mainly because:

In May and early June 1957 -- almost six months before the question of a list of anonymous witnesses first arose -- he had tried, although his own role was an administrative one, to impose his editorial judgment on the Government representatives who were members of the Committee he served and in whom the authority for making the Report on Hungary was vested. He created scenes and made threats in his efforts to induce the Committee Chairman, Mr. Alsing Andersen of Denmark, and the Committee Rapporteur, Ambassador Shann of Australia, to accept his views on the drafting of the Report. [This behavior drew a written complaint at the time from Ambassador Shann.] Unsuccessful in pressing his "corrections" to the Report, he began a long series of accusations against his Secretariat colleagues. He accused them of "dishonesty" and of "sabotage" in the work of the Committee on Hungary and especially in the preparation of its Report. He persisted in repeating these accusations until the day of his dismissal more than a year later, although repeated separate inquiries had found his charges to be without foundation, they had been flatly rejected by the Chairman and Rapporteur of the Committee on Hungary and the Report itself had been overwhelmingly endorsed by the General Assembly. He then called into question the judgment of Ambassador Shann and rejected the plea of Mr. Alsing Andersen of Denmark, to cease what the Chairman termed "disgraceful accusations."

Protection for the Anonymous Witnesses

Sixth -- As to the anonymous witnesses, the responsibility for protecting their identity rested with the United Nations, first as represented by the governmental members of the Committee on Hungary, and the Secretariat staff assigned to serve under them, and, ultimately, by the Secretary-General himself, who is responsible for the safekeeping of all such highly confidential records.

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Seventh -- Preliminary interviews with the 81 witnesses who wished to protect their identities were conducted by several staff members of the Secretariat assigned to the Committee on Hungary, including Mr. Bang-Jensen. These staff members, as well as official interpreters, necessarily had to know the identities of such witnesses. The names of many of them were also known to the Principal Secretary, the Chairman and the Rapporteur.

Eighth -- Mr. Bang-Jensen was never authorized to assure any witnesses that he alone would know their names. This would have been inconsistent with the procedures actually followed, and would in fact have made it impossible for the members of the Committee to carry out their duty of evaluating testimony. His colleagues were not asked to give such a personal assurance by any of the anonymous witnesses they interviewed. These witnesses asked only that the United Nations would protect their identities and this assurance was given.

Ninth -- As part of his administrative duties with the Committee, Mr. Bang-Jensen was assigned the task of paying witnesses their costs of travel and per diem. This was done in accordance with an instruction to the United Nations Controller at the beginning of the Committee's work to issue petty cash vouchers without requiring the usual signed receipts in the case of those witnesses who wished to remain anonymous. Mr. Bang-Jensen was authorized to pay such witnesses and to sign the receipts himself, which were not to be made available to the Controller's staff for the usual auditing procedures. This was apparently the "list" Mr. Bang-Jensen said he had kept in his personal possession, along with other highly confidential papers, which he refused to return to the United Nations for safe custody under the personal responsibility of the Secretary-General, as was done with all the other confidential records of the Committee on Hungary. Eventually Mr. Bang-Jensen brought to the United Nations for burning sealed envelopes which he said included all papers he had retained in his personal possession relating to the anonymous witnesses, presumably including a register of payments to these witnesses.*

Tenth -- Protection of the confidential character of the verbatim records of the testimony of witnesses who appeared anonymously is also the responsibility of the Secretariat and equally important to the protection of their identities. These records were never in Mr. Bang-Jensen's possession. They have been kept in safe custody by the Secretariat in accordance with the established rules for such confidential records.

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* See footnote on Page 4

Eleventh -- The Hungarian question is not the first involving "cold war" and other conflicts between Member States of the United Nations. Such investigations have, on several occasions, included the taking of testimony of individuals whose identities it was necessary to protect as well as much other information of a highly confidential character. This happened as early as 1946 with the Balkan Commission. It has happened later in connection with such questions as those of Palestine and Korea. Thus a security system equal to its responsibilities has been in force from the beginning of the United Nations. This system provides for the safe custody of such highly confidential documents under the personal responsibility of its chief, the Secretary-General. During the fourteen years of the life of the United Nations, no government, nor any other responsible source, has alleged that there has ever been a single leak or abuse of such information.

1 January 1960

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Footnote:

The circumstances in which the matter of "a list" of anonymous witnesses first arose are as follows: Some six months after the conclusion of hearings by the Committee on Hungary the United Nations received a confidential inquiry in behalf of a Hungarian refugee, then in the United States, who was being held for deportation and wished to prove, in his own defense, that he had testified anonymously before the Committee on Hungary. Only then, and for the first time, did Mr. Bang-Jensen assert that he had retained custody of a "list of secret witnesses." In fact, the information sought in behalf of the refugee was supplied by the United Nations on the basis of verbatim records of the Committee hearings which were in the custody of the Secretary-General.

A List of Facts about the United Nations and Mr. Bang-Jensen

A man's death is a cause for serious reflection and compassion. It should not be an occasion for a re-opening of old conflicts. That is the reason why the United Nations has made no comments on the case of Mr. Bang-Jensen since his death, though others have seen fit to act in a very different way.

However, there is also an obligation to the living - to all who believe in the aims of the United Nations and to those who loyally serve these aims within the Organization. When truth is distorted in ways which do grave injustice to these living and to the United Nations itself, it becomes a duty, upon the authority of the Organization, to set the record straight on the important points which have been misrepresented or misunderstood.

First - Mr. Bang-Jensen was never ordered to divulge the names of the 81 witnesses who testified anonymously before the Special Committee on Hungary.

Second - Mr. Bang-Jensen was not dismissed from the service of the United Nations for refusing to divulge the names of these witnesses.

Third - Mr. Bang-Jensen was not a member of the Committee on Hungary nor was he responsible for its report. On the contrary, among the reasons for his ultimate dismissal were his unceasing and increasingly unreasonable attacks on the report itself, on the Committee members responsible for it, and on his United Nations colleagues who had assisted in its preparation.

Fourth - Mr. Bang-Jensen was not summarily dismissed. He was dismissed for grave misconduct (not mere insubordination) only after he had been given every chance throughout the period of a whole year and four separate and exhaustive inquiries to make his case fully known and understood. With great patience in the face of repeated

delays requested by Mr. Bang-Jensen, he was allowed full opportunity to explain his harassment of the Chairman and Rapporteur of the General Assembly's Committee on Hungary (who, it may be recalled, were representatives of Governments), and his attacks upon his colleagues in the Secretariat who were assigned with him to serve the Committee.

Fifth - It is doubtful whether any Government or other employer has ever exercised as great a degree of tolerance and patience toward an employee as was given by the United Nations in this case. There is, however, a point beyond which it becomes impossible to protect a man against himself. That point is reached when he continues to accuse the Organization he serves and his colleagues of criminal actions without having been able to bring out anything valid in support of his allegations. Then he has himself made the choice.

Sixth - Mr. Bang-Jensen's misconduct involved, specifically, the following facts:

Almost six months before the question of the list of witnesses first arose, Mr. Bang-Jensen, although his own role was an administrative one, had tried to impose his own editorial judgment on the Government representatives who were members of the Committee he served and in whom the authority for making the report on Hungary was vested. He created scenes, made threats and did not stop at physical interference in his effort to oblige the Committee Chairman and the Committee Rapporteur - both men of ambassadorial rank - to accept his views on the drafting of the report. This behavior drew a written complaint from the Rapporteur. Unsuccessful in pressing his "corrections" to the report, he began to accuse his Secretariat colleagues of dishonesty and of sabotage in the work of the Committee on Hungary and especially in the preparation of its Report. He continued to persist in these accusations until the day of his dismissal more than a year later, although repeated independent inquiries had found his charges to be without foundation and they had been flatly rejected by the Chairman and Rapporteur of the Committee on Hungary. He then called into question the judgment of Ambassador Shann of Australia, the Rapporteur, and rejected the plea of the Chairman, Alsing Andersen of Denmark, to cease what the Chairman termed "disgraceful accusations".

Seventh - Mr. Bang-Jensen was never the sole custodian of the names of the 81 witnesses who wished to protect their identities. Interviews with many of these witnesses were conducted by other members of the Secretariat assigned to the Committee on Hungary. They, as well as official interpreters, necessarily had to know the identities of such witnesses. The names of many of them were also known to the Principal Secretary, the Chairman and the Rapporteur.

Eighth - Mr. Bang-Jensen was never authorized to assure any witnesses that he alone would know their names. This would have been inconsistent with the procedures actually followed, and would in fact have made it impossible for the members of the Committee to carry out their duty of evaluating testimony. His colleagues gave no such assurance to those witnesses they interviewed, nor were they asked in any single case for such assurances.

Ninth - The responsibility for protecting the identity of the anonymous witnesses rested with the United Nations, first as represented by the members of the Committee on Hungary, the Principal Secretary of the Committee and the subordinate staff assigned to serve under him and, ultimately, by the Secretary-General himself, who is responsible for the safekeeping of all such highly confidential records.

Tenth - Protection of the confidential character of the verbatim records of the testimony of witnesses who testified anonymously is the responsibility of the Secretariat and equally important to the protection of their identities. These records were never in Mr. Bang-Jensen's possession. They have been kept in safe custody by the Secretariat in accordance with the established rules for such confidential records.

Eleventh - The Hungarian question is not the first involving "cold war" and other conflicts between Member States of the United Nations. Such investigations have, on several occasions, included the taking of testimony from individual witnesses whose identities it was a duty to protect as well as much other information of a highly confidential character. This happened as early as 1946 with the Balkan Commission. It has happened later in connection with such questions as those of Palestine and Korea. Thus a security system equal to its responsibilities has been in force from the beginning of the United Nations. This system provides for the safe custody of such highly confidential documents under the personal responsibility of its chief, the

Secretary-General. During the fourteen years of the life of the United Nations, no government, nor any other responsible source, has alleged that there has ever been a single leak or abuse of such information by the Secretariat.

Twelfth - As part of his administrative duties with the Committee, Mr. Bang-Jensen was assigned the task of paying witnesses their costs of travel and per diem. This was done in accordance with an instruction to the United Nations Controller at the beginning of the Committee's work to issue petty cash vouchers without requiring the usual signed receipts in the case of those witnesses who wished to remain anonymous. Mr. Bang-Jensen was authorized to pay such witnesses and to sign the receipts himself, keeping a register which was not to be made available to the Controller's staff for the usual auditing procedures. This was the "list" which Mr. Bang-Jensen said he had kept in his personal possession along with other secret official papers and which he refused to return to the United Nations for safe custody under the personal responsibility of the Secretary-General, as was done with all the other confidential records of the Committee on Hungary. Eventually Mr. Bang-Jensen brought to the United Nations for burning sealed envelopes which he said included all papers he had retained in his personal possession relating to the anonymous witnesses, presumably including the register of payments.