

doubt always well-intentioned, contain certain passages with reference to the mandates of Nauru and Samoa which, whether as statements of fact or of opinion, were considered by the Mandatories themselves to be incorrect. The difficulty ultimately resolved itself into a most important question of procedure, which was finally raised in the Assembly by the Hon. Sir Francis Bell, of the New Zealand Delegation.

The point opens up considerations of a far-reaching character involving not only matters of procedure in connection with the review of the administration of the mandatory Powers, but even the significance of the mandate rights themselves, inasmuch as the question of an interpretation of the Covenant becomes also involved.

For obvious reasons, the importance of clearing up these obscurities at once cannot be over-emphasized. The mandate system is an entirely novel form of government, and the exercise of the powers of the organs of the League has not yet crystallized into precedent, and is not yet free from doubt. Moreover, the mandatory States administering the mandates are in certain cases Dominions of the British Empire, which by the same document as created the League and the mandate system are sometimes considered to have received for certain purposes an international status, or at any rate to have become independent members of the League. In this connection certain remarks of Sir John Salmond in his report of the Washington Conference assume relevance: "By the special and peculiar organization of that body [the League of Nations], self-governing colonies are admitted as members in their own right as if they were independent States. Although by constitutional and international law such colonies are merely constituent portions of the Empire to which they belong, they are entitled by express agreement to be treated so far as practicable as if they were independent."

It is therefore not surprising that some difference in interpretation has existed even as to the nature of the transaction by which the Dominions derive a mandatory title; and it is to be noted that in the case of Nauru a further complication arises from the fact that while this mandate was conferred on the British Empire (see Document A. 35, 1922, VI, quoted later in this report), it is administered on behalf of the Empire by the three Governments of Great Britain, Australia, and New Zealand, who are separate members of the League. So far as Samoa is concerned, the accepted position is that the League conferred the mandate on His Majesty, who holds it on behalf of the League, and that His Majesty, as of right, conferred it on the Dominion of New Zealand, who administers it on behalf of His Majesty. Other interpretations of the mandatory title have been suggested in the cases of certain other Dominions. The point is important, and especially so as it involves the question not only of control, but of the responsibility of His Majesty's Government of Great Britain and that of the Dominion concerned. To quote from Sir Francis Bell's speech in the Third Assembly (19th September): "What His Majesty does in right of his Dominion he does on the advice of his Ministers of that Dominion, not on the advice of his Ministers of Great Britain."

To appreciate the significance of this point, which will arise again and again until decided, it must be borne in mind, as Sir John Salmond said in his Washington report, that the position of the Dominions in the League is entirely different from their position in other international assemblies. Recently, however, a new and grave difficulty has proved to be contained in this doctrine with reference to the issue of full powers. In the recent Canadian Halibut Fishery Treaty the point arose whether the Canadian delegate who signed that treaty alone with the United States was appointed by His Majesty on the advice of His Majesty's Canadian Ministers, or by His Majesty on the advice of his Ministers of the Government of Great Britain. There is little doubt that His Majesty appointed the Canadian plenipotentiary on the advice of his Canadian Ministers, having been advised so to do by his British Ministers, for there is as yet no precedent for His Majesty issuing any full powers except on the advice of his Ministers of the Government of Great Britain. But if the position of the Dominions at Geneva is different from their position at Washington, does this mean that for the purposes of the Assembly of the League His Majesty is required to act on the advice of his Dominion Ministers alone, either in matters of foreign policy or in issuing full powers or instructions appointing a Dominion delegate as an accredited representative to an Assembly of the League? It is difficult to understand how His Majesty can do either, even on the advice of his Dominion Ministers, unless advised so to do, as he invariably is, by his British Ministers.

In addition to the importance of clarifying the obscurities that exist with regard to mandates generally, there are certain other matters, such as the nationality of the inhabitants of mandatory territories, decisions regarding which have not yet broadened into precedent. Some of these matters, including the general protest of the United States against trade preference or tariff regulations in any mandatory territories (as distinguished from the specific matter of tariff for Western Samoa or the Port of Tutuila, arising under the 1899 Convention), as well as certain other matters—as, for example, the United States' request for duplicate reports of administration of mandated territories (Documents, Treaties, 2276-2388)—are to receive attention at the forthcoming Imperial Conference. It has therefore been considered advisable and useful to refer, where necessary, to certain developments appertaining to mandates during the year preceding the Third Assembly.

In his official report on the Third Assembly, with reference to the question of procedure raised by Sir Francis Bell, Sir James Allen says: "In essence the procedure adopted allows the Permanent Mandates Commission to publish what may be a totally incorrect statement both as regards opinion and fact concerning the administration of the mandate." While inaccurate statements of fact or opinion such as those in question are no doubt unfortunate to all concerned, the real point at issue, however, is not that the observations of the Permanent Mandates Commission were incorrect, for even the Council might conceivably publish an incorrect report, but that what is in fact to all intents and purposes a final published report should not be published by the Permanent Mandates Commission