

It is noted that the Permanent Mandates Commission "wishes to bring to the notice of the Council, in connection with the Nauru mandate and with the above-mentioned Act, the relation of the authority responsible for the administration of the island under the conditions of the mandate to the organization established jointly by the three Governments for the exploitation of its extensive and valuable phosphate deposits."

The Commission further proceeds to state that "It appears from the discussion that the exclusive rights to the possession and development of these deposits formerly rested in a German private company."

The comments proceed to explain that the actual arrangements were scarcely such as were suggested; that in 1900 the deposits were discovered by the Pacific Phosphate Company, the Island of Nauru being administered by Germany at that time as part of the Marshall Islands; that in 1905 a concession was granted by the German Government to a German company for ninety-four years, which concession was transferred to the Pacific Phosphate Company, a registered English company, on the 22nd January, 1905, with the consent of the German Government. The monopoly was held by the Pacific Phosphate Company until the 25th June, 1920, when it was purchased by the Governments of the United Kingdom, Australia, and New Zealand. An explanation of the constitution of the Commission then follows:—

"The position of the Commissioners is, in fact, strictly analogous to that of the directorate of a company, who, whilst they hold office, must have full power to act within the terms of their memorandum of agreement, and are so far free from interference by their shareholders, but who might be replaced by other directors at the will of the shareholders of the company if their services were not satisfactory."

"The observations, therefore, of the Permanent Mandates Commission on Article 13 of the Nauru Island Agreement were based on an assumption which does not really arise. The article was introduced into the said agreement with the direct purpose of ensuring that the Phosphate Commissioners should be free to perform their functions as managers of a business concern; but it does not mean that they would not be—as indeed they are—in other respects subject to the control of the Administrator, or that the conditions of labour, &c., should be solely in their hands. The powers of the Commissioners referred to in Article 13 relate only to their functions as directors of a business corporation. Freedom of the Commissioners from governmental control in the business of working, shipping, and selling of the phosphates is not interpreted by the Governments concerned to include freedom of control in regard to conditions of labour, &c., and on more than one occasion instructions have been given to the Commissioners, through the Administrator, on this matter. There is therefore no reason for any perturbations on the ground that the Commissioners are free from administrative control in their operations."

"In its concluding observation on Article 2 of the Nauru Island Agreement the Permanent Mandates Commission states, 'From this it would seem to follow that, should the expenditure of the public administration exceed the revenue from taxation, the Phosphate Commission, and not the mandatory Power for the time being, will be responsible for finding the deficit.'

"It is quite true that any deficit in revenue would be defrayed out of the proceeds of the sale of the phosphates. As indicated, this, in effect, simply means that the Administrator representing the three Governments concerned makes up the deficit from revenues obtained from the company instead of imposing further taxation on the Natives of the island."

SIXTH (MANDATES) COMMITTEE OF THIRD ASSEMBLY.

These reports of the mandatory Powers, the observations thereon of the Permanent Mandates Commission, and documents relating thereto, were referred for consideration to a special sub-committee of the Sixth Committee appointed by the Third Assembly, and comprising M. Aubert (France), Sir Francis Bell (New Zealand), Dr. Bellegarde (Haiti), Lord Robert Cecil (South Africa), Mr. H. A. L. Fisher (Great Britain), Viscount Ishii (Japan), Dr. Nansen (Norway), M. Poulet (Belgium), M. Preciosi (Italy), Mr. Justice Rich (Australia).

Its first meeting was held at Geneva on the 12th September. The following relative matters were dealt with by that committee:—

Sir Francis Bell pointed out that, in connection with the Nauru mandate, the text of the Permanent Mandates Commission Report—"the British Empire had transferred the responsibility"—conveyed a wrong impression, and suggested that the words "provided for the administration" should be employed. An amended text was, after some consideration, agreed upon.

Sir Francis Bell further drew the attention of the committee to the phrase in the amendment, "Great Britain and New Zealand have reserved to themselves exclusive rights"; but the New Zealand delegate explained that in reality these rights had been repurchased. Lord Robert Cecil considered that the situation in both cases was fundamentally the same, in that the three Governments had reserved their rights by purchase. Sir Francis Bell, however, explained that if the three Governments had in their capacity as mandatory Powers excluded every one else from their right of ownership, the Permanent Commission would be entitled to blame them, but the transaction had been carried out by these Governments in a manner which any other purchaser would have employed. Recommendations intended to correct these inaccuracies were, after some discussion, finally agreed upon and adopted by the Sixth Commission in its report to the Assembly (Document A. 72, 1922, VI). The recommendations contained in that report are as follows:—

"With regard to the Nauru mandate dealt with in Part II of the report of the Permanent Mandates Commission, the Sixth Committee deems it advisable to prevent possible misinterpretation by taking note:—

"First, that the British Empire (the unit responsible for the Nauru mandate) consists of Great Britain together with a number of territories, all owing a common allegiance but