SAMOA.

CORRESPONDENCE WITH GERMANY.

PRESERVATION OF RECORDS OF LAND COMMISSION.

Mr. Olney to Mr. von Reichenau.

No. 257.] DEPARTMENT OF STATE,
Washington, December 11, 1896.

SIR: Adverting to the Department's note, No. 208, of August 13 last, I have the honor to inclose a copy of a note from the British ambassador of the 1st instant, stating that Her Majesty's Government was prepared to bear its share of the expenses that might be incurred in the purchase of the requisite safes for the preservation of the records of the late land commission in Samoa, and that instructions to that effect would be addressed to Her Majesty's consul at Apia.

The Government of the United States is also willing to assume its share of such expense, and has so instructed Mr. Churchill, consul-general of this Government there, to whom a copy of Sir Julian Pauncefote's note has been sent.

Permit me to express the hope that His Majesty's Government will likewise assume its share of such expenditure, and that if instructions in this sense have not already been sent to the German consul at Apia to act in harmony with his colleagues from the United States and Great Britain they may go forward in the near future.

Accept, sir, etc..

RICHARD OLNEY.

Mr. Olney to Mr. von Reichenau.

No. 264.] DEPARTMENT OF STATE,
Washington, December 19, 1896.

SIR: I have the honor to acknowledge the receipt of your note of the 12th instant, stating that the Government of Germany would bear its share of the cost of safes for the preservation of the records of the Samoan land commission and that the consular representative at Apia had been so advised.

Adding that a copy of your note has been sent to Mr. Churchill, the consul-general of this Government there, I beg to renew to you, sir, etc.,

RICHARD OLNEY.

TEMPORARY PERFORMANCE BY CONSULAR BOARD OF DUTIES OF PRESIDENT OF MUNICIPAL BOARD.

Baron von Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, December 18, 1896. (Received Dec. 19.)

MR. SECRETARY OF STATE: Mr. Schmidt, president of the municipal council at Apia, has expressed to the Imperial Government his intention to sail for home on the 23d of January next, at the latest, availing himself of the departure of a vessel which leaves Apia on that day. As Mr. Schmidt accepted the office to which he was appointed for a period of three years only, and as that period will expire on the 31st of the present month of December, there is, in the opinion of the Imperial Government, no objection to Mr. Schmidt's plan, and his departure can not be prevented. As regards the arrival of Dr. Raffel, Mr. Schmidt's successor, he will, in all probability, not reach Apia until several months have elapsed. The Imperial Government considers it desirable that the duties of the municipal president should, in the meantime, be performed by the consuls of the treaty powers, just as was done after the retirement of Baron Senfft von Pilsach, the former municipal president, until Mr. Schmidt's arrival.

In having the honor to bring the foregoing to your excellency's notice, I beg, in pursuance of instructions received, to be informed, as speedily as practicable, whether the United States Government shares the view of the Imperial Government, and is prepared to instruct its representative at Apia accordingly.

THIELMANN.

Mr. Olney to Baron von Thielmann.

No. 267.] DEPARTMENT OF STATE,
Washington, December 21, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 18th instant, wherein you state that Mr. von Schmidt, president of the municipal council at Apia, who accepted the office for a period of three years, which will expire on the 31st instant, has expressed his intention to leave Samoa by January 23 proximo, on a vessel which sails on that date, and that the Imperial German Government perceives no objection to his departure, which can not be prevented. It is accordingly asked whether this Government shares the same view as that of Germany, and whether it is prepared to instruct the United States consul-general at Apia in that sense, to the end that the consular representatives of the treaty powers at Apia may perform the duties of the municipal president, as was previously done in 1893, until the arrival of Dr. Raffel, which will not occur, according to your note, "until several months have elapsed"—presumably several months after January 23, 1896.

In view of the unsatisfactory condition of affairs that arose in 1893, when the consular body, under instructions from the Governments concerned, relieved Baron Senfft von Pilsach (see Senate Ex. Doc. No. 97,

Fifty-third Congress, third session), it is greatly regretted that so long a period must necessarily elapse between the retirement of Mr. von Schmidt and the arrival of his successor. It is hoped, however, that in case the three Governments are agreed—although I am unable to concur in the statement that Mr. von Schmidt's "departure can not be prevented"—Dr. Raffel will recognize the urgency of his presence at Apia and the assumption of his official duties at the earliest practicable moment.

Regarding the departure of Mr. Schmidt, I may say that in October last he addressed the Department directly requesting to be relieved at the end of December, adding that his successor was expected at the beginning of next year. His motive for sending his request in that manner was, he said, owing to the fact that Mr. Churchill might not in the press of business incident to the departure of the mails find opportunity to communicate the request.

October 29 last Mr. von Schmidt's letter was acknowledged, and on the same day a telegram was addressed to Mr. Churchill directing him to favor the early departure of Mr. von Schmidt.

Almost simultaneously with the Department's action a dispatch was received from Mr. Churchill with an adverse recommendation touching Mr. von Schmidt's request. I have since received a note from the British ambassador, of the 14th instant, asking the views of this Government in regard to Mr. von Schmidt's departure. One of its accompaniments is a letter from the British consul, dated Samoa, October 7, 1896, addressed to Lord Salisbury. It speaks of Mr. von Schmidt's desire to leave before the arrival of his successor, and then adds:

> It would give the consuls a great deal of unnecessary trouble to have them to take over Mr. Schmidt's office for a month and then hand it over again to Dr. Raffel, more especially as I happen to know that Herr von Schmidt has no urgent reason for leaving at the end of December.

I have advised the British ambassador of the Department's action on October 29, 1896, and have indicated that, in view of the adverse recommendation of Consul-General Churchill, coupled with statements by Consul Cusack Smith, I would be willing to withdraw my permission for Mr. von Schmidt's departure before the arrival of Dr. Raffel. Now that it appears that it will be several months from January 23 next before Dr. Raffel is expected to reach Apia, I am more strongly convinced that the consuls should not discharge the functions of the municipal president, and if Mr. von Schmidt can not be prevailed upon to await the coming of his successor, that Dr. Raffel's arrival should at least be expedited, in order not to leave so great an interregnum between the departure of Mr. von Schmidt and the arrival of Dr. Raffel.

As the question appears to have become one of divergence between the Imperial Government and that of Her British Majesty, as to which the judgment of the American representative at Samoa coincides with the opinion of his British colleague, I am not prepared to definitely instruct the United States Consul-General in the sense proposed until the adoption of common ground by Germany and Great Britain shall make the deferential concurrence of this Government feasible. Meanwhile Mr. Churchill will be given a copy of this correspondence. I shall likewise inclose a copy to the British ambassador.

Accept, Mr. Ambassador, etc.,

RICHARD OLNEY.

Baron von Thielmann to Mr. Olney.

IMPERIAL GERMAN EMBASSY,
Washington, December 26, 1896. (Received Dec. 26.)

MR. SECRETARY OF STATE: I have brought to the notice of the Imperial Government the contents of your excellency's note of the 21st instant, No. 267, in which objections are raised to the temporary performance of the duties of the municipal president by the consuls of the treaty powers at Apia, and the required approval of the United States Government is made dependent upon an understanding previously to be reached between England and Germany.

In reply I have the honor, in pursuance of instructions received, most respectfully to inform your excellency that the Government of Great Britain has now communicated to the Imperial Government, officially, its assent to the propositions contained in my note of the 18th instant.

Not only are the circumstances already known to your excellency opposed to Municipal President Schmidt's longer stay at his post (which is advocated by your excellency in your note of the 21st instant, and of which the Imperial Government would have been very glad), but also, and chiefly, reasons connected with his health, which make it apparent that his speedy return home is imperatively necessary.

I have been directed most respectfully to request your excellency to send suitable instructions by telegraph to the United States consul-general at Apia, and I should be especially grateful if you would favor me with a reply as soon as practicable.

Accept, Mr. Secretary of State, etc.,

THIELMANN.

Mr. Olney to Baron von Thielmann.

No. 271.] DEPARTMENT OF STATE,
Washington, December 28, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 26th instant, stating that the Government of Great Britain had officially communicated to that of His Imperial Majesty its assent to the departure of Mr. Schmidt, president of the municipal council at Apia, prior to the arrival of his successor, and its agreement that the consular board should discharge the duties of the office until Dr. Raffel should reach Apia.

In view of the foregoing, as well as on account of the condition of Mr. Schmidt's health, which you now say makes his speedy return home "imperatively necessary," I have telegraphed Mr. William Churchill, the consul-general of the United States at Apia, to act in harmony with his colleagues in performing the duties of the municipal presidency in the interim between Mr. Schmidt's departure and Dr. Raffel's arrival, which, I trust, may be no longer delayed than is actually necessary.

Accept, Mr. Ambassador, etc.,

RICHARD OLNEY.

CRIMINAL JURISDICTION OVER MEN-OF-WAR'S MEN.

Mr. Olney to Mr. Uhl.

No. 256.] DEPARTMENT OF STATE,
Washington, December 22, 1896.

SIR: I inclose a copy of a dispatch from the consul-general of the United States at Apia, No. 21, of September 29, 1896, and of the Department's reply of the 21st instant, No. 37, in regard to two sailors belonging to the German war ship *Falke*, who were arrested by the police at Matafele, charged with being drunk and disorderly in the street and with willfully damaging private property. They were subsequently released by direction of the German consul, contrary to any provision of law to that end. It also appears that as early as January last the president of the municipal council at Apia instructed the chief of police that in case any sailors from the German war ships were arrested by the police they were to be released on bail upon a watch being sent ashore for them.

I am unable to find any warrant of law for the action of the German consul or the order of the president of the municipal council. The inclosed correspondence will disclose the situation fully.

You are instructed to make proper representations upon the subject to the German Government, and to suggest the propriety of adopting the necessary means to prevent a recurrence of such arbitrary and unlawful acts in the future.

I am, sir, etc., RICHARD OLNEY.

Mr. Uhl to Mr. Olney.

No. 239.] EMBASSY OF THE UNITED STATES,
Berlin, January 13, 1897. (Received Feb. 1.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 256, of the 22d ultimo, in regard to the release by order of the German consul at Apia, Samoa, of two sailors from the German war ship *Falke*, who had been arrested by the police at Matafele, on a charge of having been drunk and disorderly and of willfully damaging private property, and to inclose a copy of a note addressed by me to the German foreign office, making representations on the subject as directed.

I have, etc.,

EDWIN F. UHL.

[Inclosure in No. 239.]

Mr. Uhl to Baron von Rotenhan.

F. O. No. 155.] EMBASSY OF THE UNITED STATES,
Berlin, January 13, 1897.

The undersigned, ambassador of the United States of America, acting under instructions from his Government, has the honor to bring to the attention of His Excellency Baron von Rotenhan, acting secretary of state for foreign affairs, an incident which occurred in Samoa in June last, in which, as it has been officially reported to the Government of the undersigned, it appears that two sailors from the German warship *Falke* were arrested by the police at Matafele charged with

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[1] See also p. 456.

being drunk and disorderly and with willfully damaging private property; that the chief of police reported the case to the local magistrate, Mr. William Cooper, by whom the amount of the bail was fixed, and the chief of police instructed not to release the prisoners unless the bail was deposited; that they were shortly thereafter released by the direction and order of the German consul, who did not confer with the magistrate, but stated to the chief of police that he would assume all responsibility in the premises; that no bail was furnished, and the prisoners did not appear before the magistrate as ordered by the court, and that the municipal magistrate strenuously objected to this assumption of authority by the German consul, in a communication addressed to the municipal council, insisting that the order of the court had thereby been treated with contempt, asserting that neither the municipal court nor its magistrate were subject to the control or supervision of the German consul, and pointing out that if the sailors of one nationality were to be thus withdrawn from the jurisdiction of the court, the sailors of other nationalities might with equal right claim similar exemption. It is further reported that in January, 1896, the president of the municipal council instructed the chief of police that if any sailors from the German warships were at any time arrested by the police they were to be released on a watch being sent ashore for them.

In the judgment of the Government of the undersigned it is beyond question that the German consul exceeded his authority in directing the release of the two sailors in question; and as respects the president of the municipal council, although, as the chief executive officer, he is in charge of the administration of the laws and ordinances applicable to the municipal district of Apia, he is not authorized or empowered to order the release or discharge of persons who have been legally placed in custody charged with an offense triable by a municipal magistrate. It is rather the duty of the president to see that the laws are faithfully executed. Under no circumstances should he arbitrarily overrule the municipal regulations, set them at naught, or assume functions clearly not within his province. Such acts, besides being illegal, tend unnecessarily to create ill feeling, discord, strife, and dissatisfaction, whereas the letter and spirit of the general act are to conciliate all differences and to restore peace and harmony. The chief aim of the three Governments concerned, no less than the officers appointed to execute its provisions, should be to administer the laws impartially and compose all differences in the interest of order and good government.

Touching this aspect of the case, the municipal magistrate, in his communication to the municipal council, pertinently observes:

> If the responsible head of the municipal administration himself sets the laws and ordinances at defiance, it can not be expected that other persons will pay much respect to them.

The undersigned is instructed, in bringing this subject to the attention of the Imperial German Government, to suggest the propriety of adopting the necessary measures to prevent the recurrence of such arbitrary and unlawful acts in the future.

The undersigned avails himself, etc.,

EDWIN F. UHL.

CORRESPONDENCE WITH GREAT BRITAIN.

PERFORMANCE OF DUTIES OF CHIEF JUSTICE BY CONSULAR BOARD.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, March 9, 1897.

SIR: With reference to Mr. Onley's note to me of the 27th ultimo on the subject of Mr. William Lea Chambers's appointment as chief justice of Samoa, I have the honor to inform you that Her Majesty's consul in Samoa has suggested that the finances of the island would be greatly eased by the chief justice's departure and by the consuls, or one of them, being deputed to act in his place until the arrival of his successor.

Lord Salisbury has inquired by telegraph when it is expected that Mr. Chambers shall start for his post, and I shall be greatly obliged if you will favor me with this information desired by Lord Salisbury, as well as the views of the United States Government upon the suggestion made by Her Majesty's consul, which I have above stated.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Sherman to Sir Julian Pauncefote.

No. 614.] DEPARTMENT OF STATE,
Washington, March 15, 1897.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 9th instant, suggesting that the finances of the Samoan Government would be materially eased by the departure of the chief justice and by the consuls, or one of them, being deputed to act in his place until the arrival of Mr. Ide's successor.

It is also desired to know when Mr. William Lea Chambers, named as Mr. Ide's successor, is expected to take his departure.

Replying to this last inquiry, I may observe that recently your colleague, the German ambassador, preferred the same request, expressing the hope that it might be as early as possible.

On the 9th instant inquiry in this sense was made of Mr. Chambers. His reply is dated the 11th instant, a copy of which I inclose, and which discloses his purpose to sail from San Francisco for his post April 29, 1897, unless an earlier date be suggested by the treaty powers.

The Department realizes the necessity of an early departure on the part of Mr. Chambers, which has previously been suggested to him orally and in writing. That he appreciates the situation is shown by his letter. His departure will not, therefore, be delayed beyond the time actually necessary to make his personal arrangements for as long a journey and as extended a stay as is contemplated at Apia.

Attention is also invited to what Mr. Chambers has to say regarding the sum to be advanced to him before his departure by the three Governments in equal shares on account of traveling expenses for himself and family.

Mr. Chambers refers, as you will perceive, to the correspondence exchanged between yourself and Mr. Blaine on June 13 and 17, 1890, respectively, as to the general policy to be pursued in such cases.

I desire to know the amount to be agreed upon, one-third of which will be borne by this Government. In the case of Mr. Ide the sum finally allowed to him was $2,500. If, however, after the sum shall be fixed, it should be thought more convenient to have this Government advance the whole sum from its available appropriation, it will do so and may be reimbursed by the Governments of Great Britain and Germany by the payment of their respective quotas.

I shall be glad to receive at your early convenience an expression of the views of Her Majesty's Government upon this particular subject.

With reference to the suggestion that the consular body, or one of its members, perform the duties of chief justice, to enable Mr. Ide's departure, in view of the condition of the Samoan finances, I can only say that, in consequence of Mr. Chambers's expected early departure, it is not thought advisable to adopt the course you suggest even if it were permissible, under the provisions of the Samoan general act concluded at Berlin June 14, 1889, to follow that course.

I find, upon reference to that engagement, that Article III, section 2, declares that the powers of the chief justice, in case of a vacancy of that office from any cause, shall be exercised by the president of the municipal council until a successor shall be duly qualified and appointed. Again, section 3 of Article II says: "In either case of removal, or in case the office shall become otherwise vacant, his successor shall be appointed as hereinbefore provided"—that is, by the three signatory powers in common accord or, failing therein, by the King of Sweden and Norway.

Under these circumstances the Government of the United States can not assent to the suggestion of Her Majesty's consul, as expressed by Lord Salisbury, that the functions of the chief justice be temporarily confided to the consular body or a single member thereof. The president of the municipal council is the only person authorized in a certain contingency to act temporarily as chief justice, and it is to be remembered that the consular body, because of the departure of Herr von Schmidt and the nonarrival of his successor, Dr. Raffel, so far as the Department is at present advised, is discharging the duties of the president of the municipal council.

This Department will do all that it can to hasten the departure of Mr. Chambers, who, with a realization of the situation, will make his arrangements accordingly.

I have, etc.,

JOHN SHERMAN.

Sir Julian Pauncefote to Mr. Sherman.

WASHINGTON, *May 26, 1897.*

SIR: With reference to my note of the 24th ultimo, and previous correspondence on the subject of the traveling allowance to Mr. Chambers, the new chief justice of Samoa, I have the honor to inform you, by direction of the Marquis of Salisbury, that a note has been received at Her Majesty's embassy in Berlin from Baron Marschall, the German minister for foreign affairs, dated the 21st ultimo, stating that the Imperial Government have expressed their readiness to agree to a sum of $2,500 being granted for Mr. Chambers's expenses, and to provide, on their part, for the payment of one-third of this sum.

With regard to the question which has been raised, whether it would not be desirable in future only to grant the expenses of the return journey from Samoa (except in cases of illness) to the chief justices and

municipal presidents of Apia in case they have held the appointment for at least five years, the German Government admits that it is highly desirable to avoid too frequent changes in these posts, and that, also, in granting compensation for the cost of the return journey, the length of time during which the appointment has been held and the reasons determining the retirement should be taken into consideration. Baron Marschall states that in view of the climatic conditions in Samoa a term of five years seems to be somewhat long. Cases might also arise in which the refusal to grant any portion of the expenses of the return journey, on the ground of short tenure of office or of absence of reasons of health, would involve undue hardship to the officials concerned, and the Imperial Government therefore submit for consideration whether it would not be better to abstain from regulating the matter on principle, and to continue, as heretofore, to decide each case upon its own merits.

I have, etc., JULIAN PAUNCEFOTE.

CRIMINAL JURISDICTION OVER MEN-OF-WAR'S MEN.

Mr. Olney to Mr. Bayard.

No. 1368.] DEPARTMENT OF STATE,
Washington, December 22, 1896.

SIR: I inclose a copy of a dispatch from the consul-general of the United States at Apia, No. 21, of September 29, 1896, and of the Department's reply of the 21st instant, No. 37, in regard to two sailors belonging to the German war ship *Falke*, who were arrested by the police at Metafele, charged with being drunk and disorderly in the street and with willfully damaging private property. They were subsequently released by direction of the German consul, contrary to any provision of law to that end. It also appears that as early as January last the president of the municipal council at Apia instructed the chief of police that in case any sailors from the German war ships were arrested by the police they were to be released on bail, upon a watch being sent ashore for them.

I am unable to find any warrant of law for the action of the German consul or the order of the president of the municipal council. The inclosed correspondence will disclose the situation fully.

You are instructed to make proper representations upon the subject to the British Government, and to suggest the propriety of adopting the necessary means to prevent a recurrence of such arbitrary and unlawful acts in the future.

I am, etc., RICHARD OLNEY.

Mr. Bayard to Mr. Olney.

No. 857.] EMBASSY OF THE UNITED STATES,
London, January 30, 1897. (Received —— —.)

SIR: Referring to your instruction, No. 1368, of the 22d of December last, relative to the arrest of two sailors belonging to the German war ship *Falke* by the police at Matafele, Samoa, and their subsequent release by direction of the German consul contrary to any provision of law to that end, I have the honor to inform you that I brought the

circumstances of the case to the attention of the Marquis of Salisbury by a note, a copy of which is inclosed herewith, and that I have to-day received a reply thereto from his lordship, a copy of which is also herewith inclosed.

It would appear from his lordship's note that a concerted mode of procedure in cases of offenses committed by men from the American, British, and German war vessels had been temporarily agreed upon by the consuls of the three powers interested, and that Her Majesty's representatives at Washington and Berlin were instructed on the 10th ultimo to ascertain the views of the United States and German Governments, but that their replies have not yet been received. Her Majesty's Government have, therefore, deferred sending any instructions to Mr. Cusack Smith, Her Britannic Majesty's consul at Apia.

I have, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 857.]

Mr. Bayard to Lord Salisbury.

EMBASSY OF THE UNITED STATES,
London, January 12, 1897.

MY LORD: Under instructions of the Secretary of State of the United States, I ask leave to draw your lordship's attention to an occurrence at Apia in June last, in which the action of the German consul-general, apparently sustained by the president of the municipal council and the commander of the German war ship *Falke*, appears to have been invasive and subversive of the authority of the municipal magistrate of Apia and in contravention of the compiled ordinances for the regulation of the municipal government of that community.

The facts constituting this infraction of the local laws have been reported to the Department of State by Mr. Churchill, the United States consul-general at Apia, and are believed to be correctly set forth in the communication transmitted by him of Mr. William Cooper, municipal magistrate at Apia, to the Apia municipal council, a copy of which is herewith inclosed.

From this statement it would appear that the action of the German consul in ordering the release of the alleged offenders of that nationality, without trial or hearing, was arbitrary and in violation of existing laws.

To preserve in good faith that local autonomy in the government of Apia which was the declared intent and purpose of the general regulations agreed upon by the three powers, the jurisdiction of the municipal council should be carefully sustained, and cooperative influence of the three treaty powers should be faithfully exercised to that end.

The action of the German consul, sustained by the captain of the *Falke* and the president of the municipal council, has no discoverable warrant in law, and it is therefore important that by the joint consent by the three powers such orders may be made by the three powers to their respective officials as will prevent in the future the infringement of the essential right and power of the local municipal magistrate to enforce the laws for the due preservation of the peace of the district without interference by the consuls of either of the treaty powers or of the naval officers of either power.

The duty of the three powers to sustain the municipal government in the exercise of its allotted functions seems very plain, and any irregu-

larity should be met with their prompt and joint disapproval. An identic instruction to this effect to the respective consuls of the three treaty powers, that they should abstain from interfering in any way with the municipal officers and police in the execution of their duties in maintaining the public peace would, it is believed, prevent the recurrence of such acts as I have had the honor to represent to your lordship.

I have, etc.,

T. F. BAYARD.

[Inclosure 2 in No. 857.]

Lord Salisbury to Mr. Bayard.

FOREIGN OFFICE, *January 28, 1897.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 12th instant, relative to the action taken by the German consul in connection with the arrest at Apia of two sailors belonging to the German man-of-war *Falke.*

This matter has already been under the consideration of Her Majesty's Government.

Mr. Cusack-Smith, Her Majesty's consul in Samoa, reported in September last that, owing to the incident in question and to others of a similar nature, the municipal council of Apia had passed an ordinance intended to deal with the arrest and imprisonment of seamen belonging to foreign men-of-war in Samoan waters.

Her Majesty's consul and the consuls of the United States and Germany were of opinion that the provisions of the ordinance were too cumbersome, and decided to refer the matter to their Governments for consideration.

In communicating this decision to the municipal council they made the following suggestions:

> Meanwhile the consuls unanimously request that in the case of an arrest of a man-of-war's man the president of the municipal council will at once notify the captain of the man-of-war concerned, and inform him that if he sends the necessary guard the prisoner will be handed over.

The council agreed to this request.

The consuls were also unanimous in thinking that under all the peculiar circumstances relating to Samoa it would avoid friction in future if the powers would instruct the president in the sense of the consul's request, leaving the commander of the man-of-war concerned to punish all minor infractions of municipal regulations as he may see fit.

Mr. Cusack-Smith presumes that in serious criminal offenses committed on shore in Samoa a British man-of-war's man would be subject to the jurisdiction of Her Britannic Majesty's high commissioner's court, and that, similarly, German and American men-of-war's men would be under the criminal jurisdiction of their respective consulates.

The lords commissioners of the Admiralty, to whom Mr. Cusack Smith's dispatch was referred, have expressed their concurrence in the course suggested, and Her Majesty's representatives at Washington and Berlin were instructed on the 10th ultimo to ascertain the views of the United States and German Governments.

Sir Julian Pauncefote and Sir F. Lascelles have not yet reported the result of their inquiries, and until their replies are received Her Majesty's Government propose to defer sending any instructions in the matter to Mr. Cusack-Smith.

I have, etc., SALISBURY.

Mr. Olney to Mr. Bayard.

No. 1411.] DEPARTMENT OF STATE,
Washington, February 11, 1897.

SIR: I have to acknowledge the receipt of your No. 857, of the 30th ultimo, concerning the arrest of the two sailors belonging to the German war ship *Falke* by the police at Matafele, Samoa, and their subsequent release by order of the German consul contrary to law.

I have observed your note of complaint to Lord Salisbury upon the subject of the 12th ultimo and his reply of the 28th ultimo, to the effect that the municipal council at Apia had passed an ordinance intended to deal with the arrest and imprisonment of seamen belonging to foreign men-of-war in Samoan waters, and which ordinance Her Majesty's consul and the consul of the United States at Apia were of opinion was too cumbersome. Consequently the matter had been referred to this city and to Berlin to ascertain the views of the Governments of the United States and Germany, which were awaited prior to issuing instructions to Mr. Cusack-Smith, pursuant to this Government's request.

My instructions No. 1368, of December 22, 1896, acknowledged by your No. 857, would have shown you that Mr. Churchill, the United States consul-general at Apia, in his dispatch No. 21, of September 29, 1896, presented fully the subject of the proposed ordinance, which, was designated as the "the men-of-war's men's offenders ordinance." It would also have shown you how the Department regarded the subject as disclosed in its instructions to Mr. Churchill, No. 37, of September 21, 1896, copies of both of which were transmitted to you on December 22, 1896. It was in view of the facts recited by Mr. Churchill and of the conclusions reached in the Department's reply to him of December 21, 1896, that it directed you to say to the British Government that it was unable to find any warrant of law for the action of the German consul or the order of the president of the municipal council, and to suggest that Her Majesty's Government adopt the necessary means to prevent the recurrence of such arbitrary and unlawful acts in the future.

A similar request was preferred to the German Government through your colleague at Berlin.

Since then, however, I have received Sir Julian Pauncefote's note of December 30, 1896, being the one to which Lord Salisbury doubtless refers, and which was answered at length substantially in the sense of Mr. Rockhill's instruction to Mr. Churchill of December 21 last. Copies of the British ambassador's note of December 30 and of my reply of the 16th ultimo were forwarded to you on January 19 by instruction No. 1387.

I doubt not that these have reached you and that you have again addressed Lord Salisbury upon the subject, making known to him fully the views of your Government. In case you have not I am persuaded to believe that Sir Julian Pauncefote has furnished his Government with a copy of my note. I trust, therefore, that Her Majesty's Government will not longer hesitate to address suitable instructions to the British consul at Apia in accordance with the wish expressed in my No. 1368.

As of possible interest in this connection I inclose a copy of Mr. Uhl's dispatch No. 239, of January 13, 1897, presenting the complaint to the German Government.

I am, sir, etc., RICHARD OLNEY.

Mr. Sherman to Sir Julian Pauncefote.

No. 630.] DEPARTMENT OF STATE,
Washington, April 3, 1897.

EXCELLENCY: I have the honor to acknowledge the receipt of an extract, which you personally left at the Department a few days ago, from the Marquis of Salisbury's dispatch to Mr. Cusack-Smith, Her Majesty's consul at Apia, dated February 12, 1897, touching the proposed ordinance for the disposal of members of crews of ships of war who offend against the municipal ordinances and regulations in Samoa, having reference to the one known briefly as "the men-of-war's men offenders ordinance."

It is true that Mr. Olney discussed this subject fully in his note to you, No. 581, of January 16, 1897, and that Mr. Churchill, the consul-general of this Government at Apia, had previously, by instruction No. 37, of December 31, 1896, been made acquainted with the views of this Government respecting the ordinance and the incident that gave rise to it.

While the matter, after a full discussion with Mr. Churchill and yourself, was left to his discretion and judgment, yet it was generally intimated that the municipal regulations made pursuant to the general act of Berlin of June 14, 1889, were ample for all practical purposes. Still, because of the views held by the German Government upon this subject, in which Her Majesty's Government is inclined to concur, I am disposed to believe that a happy solution of the matter may be effected, as Lord Salisbury suggests, "in consultation with the new chief justice, by the consuls of the three powers, who, being on the spot and well acquainted with local requirements, will be able to settle the questions in such manner as to avoid disputes, while at the same time securing the maintenance of order and the proper punishment of offenders."

It will give me pleasure to cause Mr. Churchill to be given copies of the present correspondence and to see that Mr. Chambers, the newly nominated chief justice to Samoa, is promptly supplied by Mr. Churchill with copies of the Department's recent instructions upon the subject, to the end that the chief justice may ascertain fully the views of this Government in the premises.

This Government will cheerfully assent to any conclusion that may be reached after such conference.

I have, etc.,

JOHN SHERMAN.

Sir Julian Pauncefote to Mr. Sherman.

WASHINGTON, *April 5, 1897.*

SIR: I have the honor to acknowledge the receipt of your note No. 630, of the 3d instant, respecting the proposed ordinance for the disposal of men-of-war's men who offend against the municipal regulations in Samoa and the course which you propose to follow with reference thereto.

I have forwarded a copy of your note to the Marquis of Salisbury.

I have, etc.,

JULIAN PAUNCEFOTE.