

UNCLAS PAGE TWO 1206 ETC

THE IMPORTANT THING NOW IS FOR THE TWO GOVERNMENTS TO CONSULT ABOUT THE IMPLICATIONS AND THE FUTURE. FOR THIS REASON, AS SOON AS THE DECISION WAS ANNOUNCED, I CABLED THE SAMOAN PRIME MINISTER, AND HE AND I WILL HAVE DETAILED TALKS IMMEDIATELY AFTER THE SOUTH PACIFIC FORUM DURING THE SECOND WEEK OF AUGUST.

IN THE MEANTIME THE LAW IS AS DECLARED BY THE COUNCIL. THERE IS NO CHANGE IN THE RULES FOR ISSUING NEW ZEALAND PASSPORTS. ALL APPLICANTS WHO HAVE THE NECESSARY PAPERS AND PROOF OF THEIR CITIZENSHIP CAN RECEIVE A PASSPORT AND WILL BE DEALT WITH IN THE SAME WAY.

THE NORMAL TIME FOR THE ISSUANCE OF A PASSPORT AFTER THE PROOF HAS BEEN SUPPLIED IS BETWEEN TWO AND THREE WEEKS. I DO NOT THEREFORE EXPECT THERE WILL BE ANY SIGNIFICANT CHANGES IN THE SITUATION BEFORE I TALK TO THE SAMOAN PRIME MINISTER.

K 71360

WLN 290415Z DC

311/6/20/1

CONFIDENTIAL 29 JULY 82
FROM WELLINGTON
TO APIA 1205

IMMEDIATE

CONFIDENTIAL
URGENT

PMD
SFA (LGL SPA AUS)
INTERNAL (MCLAY)
JUSTICE (LOWE)
CROWN LAW
SECLAB (BOND)

WESTERN SAMOA. PRIVY COUNCIL DECISION

IN DISCUSSING BRIEFING FOR FORTHCOMING DISCUSSIONS BETWEEN PRIME MINISTER AND VA-AI KOLONE (OUR 1174), WE HAVE IDENTIFIED THREE AREAS WHERE URGENT ADVICE FROM YOU WOULD BE HELPFUL:

(A) SAMOAN EXIT PERMIT SYSTEM (LAST 4 U/L): HOW DOES THIS WORK IN PRACTICE? WE ARE INTERESTED TO KNOW, FOR EXAMPLE, THE CONDITIONS UNDER WHICH SUCH PERMITS ARE ISSUED, WHETHER GOVERNMENT DECISIONS ARE SUBJECT TO LEGAL CHALLENGE.

(B) SAMOAN CITIZENSHIP PRACTICE (LAST 3 U/L): GIVEN THE PROVISION IN THE 1972 WESTERN SAMOAN CITIZENSHIP ACT, HAVE THERE BEEN ANY RECENT CASES WHERE CITIZENSHIP AND/OR PASSPORTS HAVE BEEN WITHDRAWN BY THE AUTHORITIES ON EVIDENCE OF DUAL CITIZENSHIP? WHAT WAS THE PRACTICE UNDER THE AUTOMATIC DEPRIVATION PROVISIONS OF THE 1959 CITIZENSHIP ORDINANCE?

(C) NUMBERS AFFECTED BY DECISION (LAST 4 U/L): UP TO NOW, WE HAVE RELIED ON A ROUGH ESTIMATE THAT UP TO 100,000 WESTERN SAMOANS MAY BE REGARDED AS NZ CITIZENS. WE NOW NEED TO TRY TO REFINE THIS ESTIMATE. GRATEFUL ANY INFORMATION YOU CAN GLEAN FROM CENSUS AND OTHER DATA ON NUMBERS OF WESTERN SAMOANS BORN BETWEEN 1924 AND 1 JANUARY 1949 AND THEIR CHILDREN. (YOU WILL KNOW THAT AS A RESULT OF THE NZ CITIZENSHIP ACT 1977 GRANDCHILDREN WILL NOT RPT NOT BE AFFECTED.)

IT MAY BE POSSIBLE TO GATHER THIS INFORMATION FROM YOUR OWN FILES.

s6(a)

K 71361

WLN 2 9 0400Z DC

CONFIDENTIAL

Richards
Howe

311/6/2011

RESTRICTED 30 JUL 82

RESTRICTED

FROM WELLINGTON

TO APIA 1215 IMMEDIATE

SFA (SPA LGL INF)

PMD

SECLAB

INTERNAL

VISIT BY TVNZ TEAM

1. YOUR 1087.

2. AGREE YOU SHOULD, IN CIRCUMSTANCES, ACCEPT INVITATION TO RECORD INTERVIEW ON BASIS YOU DESCRIBE. IT WOULD BE AS WELL FOR YOU TO PRESCRIPT THE INTERVIEW OR AT LEAST HAVE SOME UNDERSTANDING WITH THE TEAM ABOUT THE FORM IT SHOULD TAKE.

K71991

30/0823Z WLN SR

RESTRICTED

*MDMIS
Lange*



31/6/2011

RESTRICTED 3 AUGUST 1982

FROM WELLINGTON

TO APIA 1229 - P R I O R I T Y -

RESTRICTED

SECLAB

SFA (CON) SPD LGL)

URGENT

FROM SECLAB

EFFECTS OF THE PRIVY COUNCIL DECISION (OUR REFERENCE 22/1/127).

DEPARTMENT IS REQUIRED TO PRODUCE SEVERAL PAPERS TO THE MINISTER URGENTLY.

GRATEFUL IF FOLLOWING IF FOLLOWING INFORMATION CAN BE OBTAINED
s6(a)

(A) NO. OF APPLICATIONS IN THE PIPELINE FOR CONSIDERATION UNDER QUOTA SYSTEM AS AT PRESENT AND THE NUMBER OF PERSONS COVERED BY SUCH APPLICATIONS.

(B) THE SAME FIGURES AS IN (A) AS AT COMMON DATE SAY 31 DECEMBER OVER THE LAST FIVE (5) YEARS.

(C) YOUR COMMENTS ON THE FREQUENCY OF DROP DATE FROM THE PENDING CASES TO VISITOR PERMIT APPLICATIONS. ?

(D) AN ACCURATE ASSESSMENT OF THE WAITING TIME FOR A PERSON WHO LODGES A QUOTA CASE NOW.

K72927

WLN 3/0537Z SH +

RESTRICTED

M. J. S.
Ridgeway
Leyle

File 3116/281

RESTRICTED 4 AUGUST 1982

FROM WELLINGTON

TO APTA 1234

- P R I O R I T Y -

INTERNAL

LABOUR SECLAB

Redist.

CROWN LAW

SFA (LGL SPA CON AUS EUR)



FROM SECLAB - FOR JENKINS FROM BOND

RESTRICTIONS ON ISSUING OF VISAS (OUR REFERENCE 22/1/127)

WE HAVE HAD SEVERAL APPROACHES FROM THE PUBLIC SAYING THAT THEY HAVE BEEN ADVISED BY YOUR OFFICE TO APPROACH US FOR AN EXCEPTION TO ALLOW A VISA TO BE ISSUED.

I WOULD WISH THE ARRANGEMENT TO BE THAT ALL EXCEPTIONS ARE CHANNELLED THROUGH YOUR OFFICE. IF YOU CONSIDER AN EXCEPTION JUSTIFIED YOU GO RIGHT AHEAD. IF YOU ARE IN DOUBT OR HAVE BEEN ASKED TO REFER PLEASE DON'T HESITATE TO REFER THE DETAIL BY TELEX. I STRONGLY WANT TO AVOID THE SITUATION THAT PEOPLE ARE APPROACHING US AND WE ARE MAKING DECISIONS THAT ARE GOING AGAINST ADVICE ALREADY GIVEN BY YOU. I WOULD APPRECIATE YOUR COMMENTS AS FREQUENCY OF APPROACHES IS SUCH THAT SOME MISLEADING ADVICE OR RUMOUR IS ABROAD IN APTA THAT THE WAY AROUND THE RESTRICTIONS IS TO HAVE YOUR RELATIVES MAKE A CASE TO LABOUR IN NEW ZEALAND.

FOR OUR PART WE ARE CONTINUING TO REFER PEOPLE BACK TO YOUR OFFICE FOR THE INITIAL DECISION.

RESTRICTED

K73348

WLN 4/2443Z SH +

*Morris
Riddick
Layle*

File

311 16/20/11

CONFIDENTIAL

CONFIDENTIAL 24 AUG 82

FROM WELLINGTON

TO APIA 1235 -PRIORITY-

URGENT

SFA

PMD

SECLAB (BOND)

INTERNAL (MCLAY)

JUSTICE (LOWE)

CROWN LAW (NEAZOR)

SFA (LGL, SPA, CON, AUS)

PRIVY COUNCIL DECISION RELATING TO ENTITLEMENT
OF WESTERN SAMOANS TO NEW ZEALAND CITIZENSHIP

WE HAVE BEEN EXAMINING RELEVANT NEW ZEALAND AND WESTERN SAMOAN LAWS IN PREPARATION FOR THE DISCUSSIONS ON THE EFFECTS OF THE PRIVY COUNCIL DECISION THAT ARE TO FOLLOW THE FORUM. WE NOTE THAT UNDER SECTION 27 OF THE CITIZENSHIP OF WESTERN SAMOA ORDINANCE 1959, IN ORDER TO OBTAIN A WESTERN SAMOAN PASSPORT A PERSON HAD TO SWEAR AN OATH OF ALLEGIANCE WHICH, INTER ALIA, ENTAILED RENUNCIATION OF 'ALL LOYALTY TO ANY COUNTRY, STATE OR SOVEREIGN OTHER THAN LOYALTY TO WESTERN SAMOA, AND ANY RIGHTS, POWERS AND PRIVILEGES TO WHICH (HE) MAY BE ENTITLED BY REASON OF ANY NATIONALITY OR CITIZENSHIP OTHER THAN THE RIGHTS, POWERS AND PRIVILEGES OF A CITIZEN OF WESTERN SAMOA'.

2. THIS REQUIREMENT WAS CONTINUED IN SECTION 12 OF THE PERMITS AND PASSPORTS ORDINANCE 1961 AND WAS PRESERVED BY SECTION 23 OF THE CITIZENSHIP ACT 1972 WHICH REPLACED THE 1959 CITIZENSHIP ORDINANCE. THE REQUIREMENT APPEARS TO HAVE BEEN DROPPED, HOWEVER, WITH THE ENACTMENT OF THE PERMITS AND PASSPORTS ACT 1978, AND THE LATEST REPRINT OF THE CITIZENSHIP ACT 1972 NOTES THAT SECTION 23 OF THAT ACT HAS BEEN IMPLIEDLY REPEALED BY THE 1978 PERMITS AND PASSPORTS ACT.

CONFIDENTIAL

K73397

Henry
Mopri
Richards

CONFIDENTIAL

CONFIDENTIAL 1235 PAGE 2...

3. GRATEFUL YOU CONFIRM FROM YOUR CONTACTS THAT:

(A) THERE IS NO RPT NO LONGER ANY REQUIREMENT TO SWEAR AN OATH OF ALLEGIANCE OF THE KIND NOTED IN PARA 1 IN ORDER TO OBTAIN A WESTERN SAMOAN PASSPORT., AND THAT

(B) THE REQUIREMENT TO SWEAR SUCH AN OATH WAS INSISTED UPON IN ALL PASSPORT APPLICATIONS UP UNTIL THE PASSAGE OF THE 1978 ACT.

CONFIDENTIAL

K73397

Q4/Q7Q7Z WLN KB

311/418

CONFIDENTIAL 13 AUG 82
FROM WELLINGTON
TO AP 1284 IMMEDIATE
RPTD CANBERRA 2836 IMMEDIATE

CONFIDENTIAL

PM'S DEPARTMENT
MINISTER OF JUSTICE
MINISTER OF FOREIGN AFFAIRS
JUSTICE
INTERNAL
LABOUR
SOLICITOR-GENERAL
SFA (LGL, SPA, AUS)

URGENT

WESTERN SAMOA : PRIVY COUNCIL DECISION

1. THE RESULT OF THE DISCUSSIONS BETWEEN THE TWO PRIME MINISTERS HAS BEEN THAT A PROPOSAL FOR A COOPERATIVE SOLUTION TO THE PROBLEM CREATED BY THE PRIVY COUNCIL DECISION HAS BEEN PUT TO VA'AI.

2. FOR YOUR OWN INFORMATION, THE ESSENCE OF THE PROPOSAL IS THAT THERE SHOULD BE A TREATY BETWEEN THE TWO COUNTRIES WHICH WOULD PRESERVE THE ABILITY WHICH NEW ZEALAND HAD PRIOR TO THE PRIVY COUNCIL DECISION TO CONTROL IMMIGRATION FROM WESTERN SAMOA, PROTECT THE POSITION OF SAMOANS NOW IN NEW ZEALAND (WHO WOULD BE ENTITLED TO APPLY AT ONCE FOR NEW ZEALAND CITIZENSHIP), AND GIVE TO THOSE SAMOANS COMING HERE WHO, UNDER PRESENT ARRANGEMENTS, WOULD HAVE THE STATUS OF PERMANENT RESIDENTS, THE ADDITIONAL RIGHT TO APPLY AT ONCE FOR NEW ZEALAND CITIZENSHIP.

s6(a)

3.

s6(a)

UNDERTOOK TO

CONSULT POLITICAL LEADERS IN WESTERN SAMOA AND THEN TO GIVE A RESPONSE TO IT. NO TIME LIMIT WAS SET BUT WE ARE HOPEFUL THAT A WESTERN SAMOAN RESPONSE WILL BE FORTHCOMING IN THE COURSE OF THE NEXT WEEK.

4. THE PRIME MINISTER DOES NOT INTEND TO MAKE PUBLIC THE NATURE OF THE PROPOSAL. THE LEADERS OF THE LABOUR PARTY AND OF THE SOCIAL CREDIT PARTY HAVE BEEN GIVEN A CONFIDENTIAL BRIEFING ON IT. OUR IFT CONTAINS A TRANSCRIPT OF THE COMMENTS THE PRIME MINISTER MADE TO THE PRESS AT THE END OF THE DISCUSSIONS WITH VA'AI.

5. WE SHOULD BE IN A POSITION ON OUR MONDAY TO GIVE YOU A FULL RUNDOWN ON THE TALKS AND THE PROPOSAL THAT FLOWED FROM THEM.

K76609

CONFIDENTIAL

W. J. Richards
Last

CONFIDENTIAL

PAGE TWO CONFIDENTIAL 1284 IMMEDIATE

6. FOR CANBERRA:

GRATEFUL IF YOU COULD ADVISE AUSTRALIANS OF THE PROGRESS
MADE SO FAR STRESSING THE POINT THAT FOR THE TIME BEING,
NOTHING (U/L) WILL BE SAID HERE ABOUT THE NATURE OF THE
PROPOSAL THAT IS BEING PUT TO VA'AI.

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K76609

13/0528Z WLN JHC

CONFIDENTIAL

COL 1284 2836

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31/4/8

UNCLASSIFIED 13 AUGUST 1982
FROM WELLINGTON
TO APFA 1285 -IMMEDIATE-
RPTD CANBERRA 2837

PM'S DEPARTMENT
MINISTER OF JUSTICE,
MINISTER OF FOREIGN AFFAIRS
JUSTICE
INTERNAL
LABOUR
SOLICITOR-GENERAL
SFA (LGL, SPA, AUS)

WESTERN SAMOA : PRIVY COUNCIL DECISION

PRESS CONFERENCE HELD BY PRIME MINISTER RT. HON. RD MULDOON.
13 AUGUST 1982 DISCUSSIONS HELD WITH PRIME MINISTER OF
WESTERN SAMOA, HON VA'A KOLONE

MR MULDOON: (U/L) WE HAVE HAD OUR DISCUSSION WITH THE PRIME
MINISTER OF SAMOA AND HIS PEOPLE, AND WE HAVE PUT TO HIM A PROPOSAL
WHICH WE THINK WOULD BE GENERALLY ACCEPTABLE IN NEW ZEALAND. AND HE
HAS UNDERTAKEN TO GO BACK TO SAMOA AND CONSULT WITH MEMBERS OF HIS
GOVERNMENT AND OTHER POLITICAL LEADERS IN SAMOA AND COME BACK TO US
AND TELL US WHETHER THIS PROPOSAL IS ACCEPTABLE. AND SO I HAVE NOW
BRIEFED THE LEADER OF THE OPPOSITION AND THE LEADER OF THE SOCIAL
CREDIT PARTY ON THE PROPOSALS, AND, THEY CAN SEE THE MERIT OF WHAT
WE PROPOSE AND, THEY IN TURN WILL TELL APPROPRIATE MEMBERS OF
THEIR PARTY WHAT IS PROPOSED. I WOULD HOPE TO HAVE A RESPONSE
FROM SAMOA BEFORE NEXT WEEK'S PARTY CAUCUS AT WHICH POINT I WOULD
PROPOSE TO PUT THE ISSUE TO THE GOVERNMENT CAUCUS AND WE WOULD
THEN I THINK BE IN A POSITION TO MAKE SOME DECISIONS AS TO HOW
WE PROCEED. ONCE AGAIN THE DETAILS OF WHAT WE ARE LOOKING AT WILL
HAVE TO REMAIN CONFIDENTIAL BECAUSE THE SAMOAN PRIME MINISTER AT
LEAST WILL WANT TO TELL HIS PEOPLE DIRECTLY AND THAT WILL NOT BE
UNTIL PROBABLY TUESDAY NEW ZEALAND TIME, RATHER THAN GET SOME
VERSION OF IT BY SOME OTHER MEANS.

K76610

Mms

Richard

Lowell

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PRESS: (U/L) PRIME MINISTER, THE SAMOAN PRIME MINISTER TOLD US ON HIS WAY OUT THAT THEY ARE WISHING TO SEE THE PRIVY COUNCIL'S RULING LEFT IN TACT. CAN YOU SAY WHETHER OR NOT THE PROPOSAL WOULD BE THAT?

MR MULDOON : NO.

PRESS : IS IT BECAUSE YOU CANNOT SAY?

MR MULDOON : NO I CANNOT SAY.

PRESS : IS THE AGREEMENT OF EITHER SAMOAN GOVERNMENT OR THE OPPOSITION PARTIES ESSENTIAL TO FINAL DECISION?

MR MULDOON : WHICH OPPOSITION PARTIES ARE YOU SPEAKING OF?

PRESS : LABOUR AND SOCIAL CREDIT?

MR MULDOON : FINALLY, NOT. FINALLY IT IS THE RESPONSIBILITY OF THE GOVERNMENT TO DEAL WITH THIS MATTER. BUT IT IS OBVIOUSLY DESIRABLE THAT WE SHOULD GET THE AGREEMENT OF THE OPPOSITION PARTIES IN NEW ZEALAND AS IT IS A CONSTITUTIONAL MATTER, AND ITS PREFERABLE THAT WE SHOULD GET THE AGREEMENT OF THE SAMOAN GOVERNMENT IN THAT IT AFFECTS THE LONG-TERM RELATIONSHIP BETWEEN THE TWO COUNTRIES. SO IF WE CAN GET THE AGREEMENT OF THE SAMOAN GOVERNMENT, WELL THAT IS CERTAINLY VERY MUCH TO BE DESIRED.

PRESS : BUT IF YOU DO NOT GET THEIR AGREEMENT WILL THE GOVERNMENT ACT ANYWAY?

MR MULDOON : WELL WE MUST TAKE SOME ACTION. I THINK I HAVE MADE THAT CLEAR A NUMBER OF TIMES THAT THE GOVERNMENT ACCEPTS THE RESPONSIBILITY OF GOVERNMENT, IT MUST DO.

PRESS : AND YOU DO NOT ACCEPT THE PRIVY COUNCIL RULING AS IT STANDS OBVIOUSLY?

MR MULDOON : WELL THERE ARE VERY VERY CONSIDERABLE OBJECTIONS TO IT BOTH ON GROUNDS OF LAW AND PRACTICE. BUT AT THE MOMENT IT IS THE LAW OF NEW ZEALAND, AND IT CANNOT BE OVER-TURNED. EVERY NEW ZEALAND COURT MUST ABIDE BY IT.

PRESS : WAS THE SAMOAN PRIME MINISTER ABLE TO SATISFY YOU THAT THERE WOULD NOT BE AN INFLUX OF SAMOAN MIGRANTS TO NEW ZEALAND?

MR MULDOON : NO ONE KNOWS THE ANSWER TO THAT QUESTION. IT IS IMPOSSIBLE TO KNOW.

PRESS : HAVE THEY IN FACT CARRIED OUT ANY SURVEYS UP THERE TO TRY AND

MR MULDOON : NOT THAT I AM AWARE OF.

PRESS : MR KOLONE TOLD US AFTER THIS MEETING TODAY THAT HE DID NOT SEE ANY MAJOR PROBLEMS RESULTING FROM THE PRIVY COUNCIL'S RULING. DID HE ELABORATE A LITTLE BIT MORE ON THAT?

UNCLASSIFIED PAGE THREE 1285 -IMMEDIATE-

MR MULDOON : WE HAVE HAD VERY DETAILED DISCUSSIONS BOTH WITH HIM AND HIS ADVISERS.

PRESS : IS THERE AN AREA OF RESERVATION OR DISAGREEMENT BETWEEN THE WESTERN SAMOAN PRIME MINISTER BELIEVES IN WHAT YOU AND YOUR ADVISERS BELIEVE?

MR MULDOON : THAT IS HARD TO ANSWER. I THINK I WOULD HAVE TO ANSWER IT IN THE WAY THAT I DID A MOMENT AGO. THERE ARE SOME OF THESE THINGS THAT CANNOT BE DETERMINED IN ADVANCE. IF WE HAVE GOT IN EXCESS OF 100,000 SAMOANS WHO HAVE A RIGHT TO NEW ZEALAND CITIZENSHIP AT THIS MOMENT IT IS QUITE IMPOSSIBLE FOR ANYONE TO ESTIMATE IN ADVANCE HOW MANY OF THEM WOULD WISH TO COME TO THIS COUNTRY. IT SIMPLY CANNOT BE ESTIMATED.

PRESS : IS THE BAN ON VISAS BEING ISSUED TO WESTERN SAMOANS CONTINUING INDEFINATELY?

MR MULDOON : WELL ONLY IN THE SENSE THAT NO DECISION HAS BEEN MADE TO ALTER IT, AND I WOULD USE THE TERM 'INDEFINATELY' IN THAT SENSE, NOT IN THE FOREVER AND EVER SENSE.

PRESS : BUT AT THE MOMENT

MR MULDOON : AT THE MOMENT IT IS STILL IN PLACE.

PRESS : IS THE WESTERN SAMOAN PRIME MINISTER HAPPY ABOUT THAT?

MR MULDOON : WELL I DO NOT THINK HE IS ANY HAPPIER THAN I AM AT THE WHOLE MATTER BEING RAISED.

PRESS : BUT HE HAS NOT OBJECTED TO THE

MR MULDOON : WE HAVE NOT TALKED TO EACH OTHER IN ANY OTHER THAN VERY FRIENDLY FASHION, NO ONE HAS OBJECTED TO ANYTHING.

PRESS : HAS HE 'EXPRESSED ANY RESERVATIONS OR WISHED TO HAVE THAT BAN REMOVED?

MR MULDOON : NO.

PRESS : IF THE SAMOAN PRIME MINISTER WANTS THE THINGS LEFT AS IT IS WITH THE PRIVY COUNCIL DECISION AND SO ON, AND YOUR GOVERNMENT SAYS THAT ULTIMATELY IT IS THE ONE THAT HAS TO MAKE THE DECISION. WHAT EFFECT DO YOU SEE THAT SCENARIO HAVING ON NEW ZEALAND'S RELATIONS LONG-TERM WITH WESTERN SAMOA?

UNCLASSIFIED PAGE FOUR 1285 -IMMEDIATE-

MR MULDOON : IF WE CAN PUT A PROPOSAL TO WESTERN SAMOA USING THE TERM IN THE BROAD SENSE THAT THEY SEE AS BEING ACCEPTABLE HAVING REGARD TO THE REALITIES OF THE SITUATION, THEN IT WILL HAVE NO EFFECT WHATSOEVER. IF ON THE OTHER HAND THEY SAY THIS PROPOSAL OR SOME VARIATION OF IT IS ENTIRELY UNACCEPTABLE, AND WE HAD TO GO AHEAD AND IMPLEMENT THAT PROPOSAL THEN OBVIOUSLY THERE WILL BE SOME LONGER TERM EFFECT, THAT IS INEVITABLE.

PRESS : PRESUMABLY YOU WOULD HAVE TO FINALLY WEIGH THE CONSEQUENCES FAIRLY CAREFULLY BEFORE MAKING THAT FINAL STEP?

MR MULDOON : WE ARE DOING THE WHOLE THING VERY CAREFULLY. I THOUGHT YOU WOULD HAVE NOTICED THAT.

PRESS : DO YOU HAVE SOME PRELIMINARY AGREEMENT ON THE COURSE THAT YOU PROPOSED FROM MR ROWLING AND MR BEETHAM?

MR MULDOON : YOU WOULD HAVE TO ASK THEM THAT. ALL I WOULD SAY IS, THAT THERE ARE NO MAJOR DIFFERENCES OF OPINION BETWEEN THE THREE PARTY LEADERS AT THIS MOMENT.

PRESS : WHAT SORT OF REACTION HAVE YOU BEEN GETTING FROM THE PUBLIC ON THIS ISSUE THROUGH YOUR MAIL BAG ETC.

MR MULDOON : I DO NOT THINK I SHOULD GET INTO THAT AREA BECAUSE I DO NOT WANT TO EXACERBATE WHAT IS POTENTIALLY A DIFFICULT SITUATION, BUT WHICH AT THE MOMENT IS NOT. AT THE MOMENT THE DISCUSSIONS WITH THE OTHER TWO PARTY LEADERS AND WITH THE PRIME MINISTER OF SAMOA HAVE BEEN ON A TOTALLY RELAXED FRIENDLY BASIS, AND I HOPE THAT IS WHAT WILL CONTINUE UP UNTIL THE TIME THAT FINAL DECISIONS ARE MADE AND IMPLEMENTED.

PRESS : REACTION AND THINGS LIKE TALK BACK SHOWS SEEMS TO HAVE BEEN HOSTILE TO THE PROPOSITION THAT THERE COULD BE UNLIMITED ACCESS BY SAMOANS. WOULD IT BE FAIR TO ASSUME THAT YOUR MAIL BAG REFLECTS THAT SORT OF AN ATTITUDE?

*in after
want to
make a
negotiate*

UNCLASSIFIED PAGE FIVE 1285 -IMMEDIATE-

MR MULDOON : I THINK YOU HAVE GOT TO REALISE THAT ON AN ISSUE LIKE
THIS PEOPLE MIGHT REACT IN A VERY SIMPLISTIC MANNER
AND, MOST OF THESE ISSUES ARE NOT SIMPLE.

PRESS : DO YOU SEE THE NEED FOR FURTHER TALKS BETWEEN
YOURSELF AND VA'A KOLONE OR

MR MULDOON : PROBABLY NOT. I WOULD HOPE THAT WE CAN GET A RESPONSE
FROM HIM NEXT WEEK THAT ENABLES US TO MOVE FAIRLY
RAPIDLY TO A DECISION.

ENDS...

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K76610

13/0606Z WLN JHC

COL 1285 2837

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CONFIDENTIAL 18 AUGUST 1982

311/6/20/1

FROM WELLINGTON

TO APIA 1309 IMMEDIATE

CONFIDENTIAL

PMD

P/S ATTORNEY-GENERAL

SFA SPA LGL)

URGENT

FOR HIGH COMMISSIONER FROM HENSLEY

WESTERN SAMOA : CITIZENSHIP

AGREEMENT HAS BEEN REACHED WITH THE SAMOANS FOR A SIMULTANEOUS ANNOUNCEMENT TO BE MADE IN APIA AND WELLINGTON AT 12.30PM THURSDAY 19 AUGUST NEW ZEALAND TIME. THE ANNOUNCEMENT WILL BE CO-ORDINATED BUT NOT IDENTICAL.

AT THE SAMOANS' REQUEST WE HAVE PREPARED A DRAFT OF THE NEW ZEALAND STATEMENT. THE SAMOAN HIGH COMMISSIONER IS TELEXING THIS TO IULAITOMA AND IS SEEKING ANY COMMENTS OR SUGGESTIONS FOR CHANGE BEFORE OUR CAUCUS MEETS 10.00 AM 19 AUGUST. FOR YOUR INFORMATION I AM SETTING OUT BELOW THE TEXT OF THIS DRAFT, AND YOU MAY WISH TO CHECK WITH IULAI. THE PRIME MINISTER IS HAPPY WITH THE WORDING, BUT IT WILL OF COURSE AVE HAVE TO BE CLEARED BY CAUCUS TOMORROW.

*Am...
M...
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BEGINS

AGREEMENT HAS BEEN REACHED BETWEEN WESTERN SAMOA AND NEW ZEALAND ON ARRANGEMENTS TO HANDLE CITIZENSHIP QUESTIONS FOLLOWING THE RECENT PRIVY COUNCIL DECISION. THE PRIME MINISTER OF WESTERN SAMOA AND I ARE ANNOUNCING THIS SIMULTANEOUSLY.

THE AGREEMENT WILL BE SET OUT IN A PROTOCOL WHICH WILL FORM PART OF THE 1962 TREATY OF FRIENDSHIP.

IT WILL BE BASED ON THE FACT THAT A COUNTRY NORMALLY GRANTS CITIZENSHIP ONLY TO THOSE INDIVIDUALS WHO HAVE A CLOSE AND EFFECTIVE LINK WITH IT. AT THE SAME TIME, HOWEVER, IT RECOGNISES THAT THE SPECIAL RELATIONSHIP BETWEEN NEW ZEALAND AND WESTERN SAMOA GIVES THOSE CITIZENS OF WESTERN SAMOA WHO COME TO NEW ZEALAND TO LIVE A SPECIAL POSITION UNDER NEW ZEALAND LAW GOVERNING CITIZENSHIP.

Circulate in SPA

THE AGREEMENT WILL PROVIDE THAT:

Richard

Li

CONFIDENTIAL

CONFIDENTIAL

CONFIDENTIAL PAGE TWO

- ALL WESTERN SAMOANS RESIDENT IN NEW ZEALAND WHEN THE PROTOCOL COMES INTO FORCE WILL HAVE THE RIGHT TO NEW ZEALAND CITIZENSHIP IMMEDIATELY:
- ALL WESTERN SAMOANS WHO THEREAFTER ARE GRANTED PERMANENT RESIDENCE UNDER NEW ZEALAND'S NORMAL IMMIGRATION PROCEDURES WILL ALSO HAVE THE RIGHT TO NEW ZEALAND CITIZENSHIP IMMEDIATELY:
- AT THE REQUEST OF EITHER, THE TWO GOVERNMENTS WILL CONSULT IN FUTURE ON ANY ISSUE AFFECTING THE WORKING OF THEIR LAWS ON CITIZENSHIP AND IMMIGRATION.

THE WESTERN SAMOAN GOVERNMENT HAS INVITED THE MINISTER OF JUSTICE AND ATTORNEY-GENERAL, HON. J K MCLAY, TO TRAVEL TO APIA SHORTLY TO COMPLETE AND SIGN THE PROTOCOL.

LEGISLATION WILL BE REQUIRED IN THE NEW ZEALAND PARLIAMENT AND WILL BE INTRODUCED AS SOON AS POSSIBLE AFTER THE PROTOCOL IS SIGNED.

I WANT TO THANK THE HON. VA'AI KALONE, PRIME MINISTER OF WESTERN SAMOA, AND HIS GOVERNMENT. THEIR READINESS TO CONSULT WITH US HAS ENABLED OUR TWO COUNTRIES TO REACH THIS OUTCOME.

CONFIDENTIAL

K78060

WLN 18/0750Z PT

311/6/20/1

UNCLAS 19 AUG 1982
FROM WELLINGTON
TO APIA 1316 ROUTINE

SECLAB
SFA (CONS)

FROM SECLAB
HO 22/1/127 WESTERN SAMOAN IMMIGRATION - STATISTICS
YOUR 1165 (REF 69/2/2) OF 16 AUGUST.
THE NUMBER OF WESTERN SAMOAN CITIZENS GRANTED CHANGE OF STATUS
IN NZ IN YEAR ENDING 31 MARCH 1982 WAS 295.

K78462
19/0305Z WLN RM

COL 1316 22/1/127 1165 69/2/2 16 31 1982 295

Paipia

W. S. Richards

31/6/2011

UNCLAS 20 AUG 1982

FROM WELLINGTON

TO SUVA 1588 CANBERRA 2931 RAROTONGA 613 LONDON 552 APIA 1324
PORT MORESBY 765 NIUE 283 NUKU'ALOFA 925 HONIARA 624
NOUMEA 248 ROUTINE

SVGS (VIA LON) EUROPEAN AND MIDDLE EAST

SVGS (VIA WLN) REMAINDER (18)

PMD

MINISTER OF JUSTICE

P.S. MFA

JUSTICE

INTERNAL

LABOUR

SOLICITOR-GENERAL

SFA (LGL, SPA, AUS)

PRIVY COUNCIL : WESTERN SAMOA :

FOLLOWING IS THE TEXT OF PRESS STATEMENT ISSUED ON 19 AUGUST
BY THE PRIME MINISTER.

PRESS STATEMENT : RIGHT HON R D MULDOON CH

AGREEMENT HAS BEEN REACHED BETWEEN WESTERN SAMOA AND NEW
ZEALAND ON ARRANGEMENTS TO HANDLE CITIZENSHIP QUESTIONS FOLLOWING
THE RECENT PRIVY COUNCIL DECISION. THE PRIME MINISTER OF WESTERN
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EFFECTIVE LINK WITH IT. AT THE SAME TIME, HOWEVER, IT RECOGNISES
THAT THE SPECIAL RELATIONSHIP BETWEEN NEW ZEALAND AND WESTERN
SAMOA GIVES THOSE CITIZENS OF WESTERN SAMOA WHO COME TO NEW ZEALAND
TO LIVE A SPECIAL POSITION UNDER NEW ZEALAND LAW GOVERNING CITIZEN-
SHIP.

THE AGREEMENT WILL PROVIDE THAT:

- ALL WESTERN SAMOANS RESIDENT IN NEW ZEALAND WHEN THE PROTOCOL
COMES INTO FORCE WILL HAVE THE RIGHT TO NEW ZEALAND CITIZENSHIP

IMMEDIATELY:

K79229

*Richard
Mayer*

UNCLAS PAGE TWO 1588

- ALL WESTERN SAMOANS WHO THEREAFTER ARE GRANTED PERMANENT RESIDENCE UNDER NEW ZEALAND'S NORMAL IMMIGRATION PROCEDURES WILL ALSO HAVE THE RIGHT TO NEW ZEALAND CITIZENSHIP IMMEDIATELY:
- * AT THE REQUEST OF EITHER, THE TWO GOVERNMENTS WILL CONSULT IN FUTURE ON ANY ISSUE AFFECTING THE WORKING OF THEIR LAWS ON CITIZENSHIP AND IMMIGRATION.

THE WESTERN SAMOAN GOVERNMENT HAS INVITED THE MINISTER OF JUSTICE AND ATTORNEY-GENERAL, HON. J K MCLAY, TO TRAVEL TO APIA SHORTLY TO COMPLETE AND SIGN THE PROTOCOL.

LEGISLATION WILL BE REQUIRED IN THE NEW ZEALAND PARLIAMENT AND WILL BE INTRODUCED AS SOON AS POSSIBLE AFTER THE PROTOCOL IS SIGNED.

I WANT TO THANK THE HON. VA'AI KALONE, PRIME MINISTER OF WESTERN SAMOA, AND HIS GOVERNMENT. THEIR READINESS TO CONSULT WITH US HAS ENABLED OUR TWO COUNTRIES TO REACH THIS OUTCOME.

FOR CANBERRA:

WE ARE REPEATING TO YOU OUR 1292 AND 193 OF 16 AUGUST TO APIA ON WHICH YOU CAN DRAW IN FURTHER DISCUSSION WITH THE AUSTRALIANS.

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K79009

201805LT BB

31/6/2011

RESTRICTED 20 AUGUST 1982
FROM WELLINGTON
TO APIA 1326 IMMEDIATE

RESTRICTED

SECLAB
PMD
INTERNAL (MCLAY)
JUSTICE (LOWE)
EDUCATION
SFA (CONS SPA LGL)

URGENT

HIGH COMMISSIONER

ADMINISTRATIVE ACTIONS WHICH WILL FOLLOW AFTER PROTOCOL HAS BEEN
CONFIRMED AND NEW ZEALAND LEGISLATION PASSED AND IN FORCE
(OUR REFERENCE 22/1/127-2) PRIOR TO DEPARTURE OF HON J K MCLAY
SEVERAL MATTERS WERE DISCUSSED WITH HIM THAT YOU AND
IMMIGRATION ATTACHE SHOULD BE AWARE OF

1. DRAFT LEGISLATION INCLUDES A PROVISION TO QUASH THE CONVICTION
ENTERED AGAINST ANY WESTERN SAMOAN CITIZEN COVERED BY THE
PRIVY COUNCIL DECISION FOR AN OFFENCE AGAINST SECTIONS
14 14B AND 15 OF THE IMMIGRATION ACT 1964 AND ALSO LIFTS
THE PROHIBITION ON ENTRY TO NEW ZEALAND IN TERMS OF SECTION
4(1)(D). THIS WILL ENABLE ANY PERSON IN THIS CATEGORY TO APPLY
FOR TEMPORARY OR PERMANENT ENTRY TO NEW ZEALAND UNDER
NORMAL IMMIGRATION RULES. THERE IS NO INTENTION TO SEEK ANY
RECOVERY OF FARES PROVIDED BY THE NEW ZEALAND GOVERNMENT WHEN THEY
WERE DEPORTEES. SOME OF THESE CASES MAY NEED CONSIDERATION BY
THIS OFFICE IF OUTSIDE OF YOUR DELEGATION. IF
SO PLEASE REFER. A LOGICAL CONSEQUENCE TO THIS IS FOR YOU TO
REMOVE FROM YOUR 'BLACK LIST' ALL THOSE PERSONS COVERED BY THE
PRIVY COUNCIL DECISION WHO RETURNED TO WESTERN SAMOA
WITHOUT CONVICTION AFTER A PERIOD OF OVERSTAYING IN NEW ZEALAND.
ENTRY TO NEW ZEALAND EITHER ON A TEMPORARY OR PERMANENT BASIS
SHOULD BE AVAILABLE TO THESE PERSONS IF THEY CAN COMPLY WITH NORMAL
REQUIREMENTS.

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Richard
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RESTRICTED PAGE TWO

2. THE DRAFT LEGISLATION ALSO PROVIDES FOR ALL WESTERN SAMOA CITIZENS IN NEW ZEALAND (REGARDLESS OF THEIR STATUS) AT THE TIME OF THE COMING INTO FORCE OF THE LEGISLATION TO OBTAIN THE GRANT OF NEW ZEALAND CITIZENSHIP ON APPLICATION. IT IS CONTEMPLATED THAT SOME MAY NOT WISH TO HAVE SUCH STATUS AND THEY WILL ON APPLICATION BE GRANTED PERMANENT RESIDENCE. AS A CONSEQUENCE TO THIS IT IS NO LONGER EQUITABLE FOR YOU TO BLACK LIST PERSONS APPLYING FOR TEMPORARY ENTRY OR PERMANENT ENTRY WHO HAVE IMMEDIATE RELATIVES IN NEW ZEALAND WHO WEREKNOWN TO BE OVERSTAYERS. SUCH RESTRICTIONS MUST BE ABOLISHED AS SOON AS THE LEGISLATION BECOMES LAW.

3. THE CONVICTIONS ON IMMIGRATION CHARGES AND THE PROHIBITION ON ENTRY WILL REMAIN ON THOSE PERSONS NOT COVERED BY THE PRIVY COUNCIL DECISION AND IT WILL BE NECESSARY TO MAINTAIN THE 'BLACK LIST' REFERRED TO IN (1) ABOVE FOR THOSE WHO HAVE RETURNED WITHOUT CONVICTION WHO ARE NOT COVERED BY THE PRIVY COUNCIL DECISION. THE NEED FOR YOU TO BLACK LIST PERSONS WITH IMMEDIATE RELATIVES IN NEW ZEALAND AS OVERSTAYERS WILL RESUME AGAIN WHEN TEMPORARY ENTRY RETURNS TO NORMAL AND OVERSTAYING RESULTS.

4. THE RESTRICTIONS ON ISSUING VISAS FOR TEMPORARY ENTRY AND ALL OTHER RESTRICTIONS AS PER OUR TELEX 1168 WILL NOT BE LIFTED UNTIL LEGISLATION IS FINALISED AND BECOMES LAW.

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RESTRICTED PAGE THREE

5. HON J K MCLAY HAS AUTHORITY TO ADVISE THE WESTERN SAMOAN GOVERNMENT THAT PRIVATE STUDENT ENTRY BELOW VI-TH FORM LEVEL HAS BEEN RECONSIDERED AND THAT FOR THE 1983 YEAR UP TO 50 STUDENTS PER YEAR AT FORM V LEVEL AND 50 STUDENTS PER YEAR AT FORM IV LEVEL WILL BE ADMITTED AS STUDENTS SUBJECT TO OBTAINING PLACES IN NEW ZEALAND SCHOOLS AND BEING CONSIDERED SUITABLE ON THE BASIS OF THE EXISTING OSBORNE TEST. FROM 1984 A MAXIMUM OF 50 AT FORM V, 50 AT FORM IV AND 50 AT FORM III WILL BE ADMITTED AS STUDENTS SUBJECT TO SCHOOL PLACES IN NEW ZEALAND AND SUBJECT TO AN ABILITY AND LANGUAGE TEST TO BE DEvised IN CONJUNCTION WITH THE WESTERN SAMOAN AUTHORITIES.

6. AS YOU KNOW PROPOSALS HAVE BEEN ADVANCING TO PROVIDE ENTRY TO EDUCATIONAL INSTITUTIONS IN NEW ZEALAND ON A FULL COST RECOVERY BASIS FROM ANY COUNTRY. HON J K MCLAY MAY ALSO MENTION THIS AS A POLICY WHICH IS BEING PURSUED BUT WHEN FINALIZED WOULD BE IN ADDITION TO 5 ABOVE.

7. THE LEGISLATION TO QUASH CONVICTIONS AS OUTLINED IN PARA 1 IS IN BLANKET FORM. IT SEEMS CERTAIN THAT EACH INDIVIDUAL WILL NEED TO BE IDENTIFIED SO AS DETAIL CAN BE REMOVED FROM THE COMPUTER RECORD. THIS WOULD APPEAR TO BE ESSENTIAL TO AVOID COMPLICATIONS IF THOSE CONCERNED RETURN TO NEW ZEALAND AND COME TO NOTICE OF THE POLICE. GRATEFUL FOR ADVICE IF YOUR RECORDS ARE KEPT IN SUCH A MANNER THAT DEPORTEES COVERED BY THE PRIVY COUNCIL DECISION CAN BE IDENTIFIED.

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WLN 20/0915Z PT

31/6/201

Duplicate

Released under the
Official Information Act

3116/201

Duplicate

DECLASSIFIED

Released under the
Official Information Act

3114/201

RESTRICTED 24 AUG 82

FROM WELLINGTON

TO APIA 1337

IMMEDIATE

RESTRICTED

SPA
JUSTICE
PMD

SPA (LGL SPA)

WESTERN SAMOA : CITIZENSHIP

OUR IPT

FOLLOWING IS TEXT OF BILL INTRODUCED INTO HOUSE:

BEGINS:

A BILL INTITULED

AN ACT TO IMPLEMENT THE PROTOCOL DONE AT APIA ON THE
21ST DAY OF AUGUST 1982 TO THE TREATY OF FREINDSHIP
BETWEEN THE GOVERNMENT OF NEW ZEALAND AND THE
GOVERNMENT OF WESTERN SAMOA DONE AT APIA ON THE 1ST
DAY OF AUGUST 1962, AND TO MAKE PROVISION RELATING TO
THE NEW ZEALAND CITIZENSHIP OF CERTAIN PERSONS BORN IN
WESTERN SAMOA BEFORE 1949 AND OTHERS CLAIMING BY
DESCENT OR MARRIAGE THROUGH SUCH PERSONS

BE IT ENACTED BY THE GENERAL ASSEMBLY OF NEW ZEALAND
IN PARLIAMENT ASSEMBLED, AND BY THE AUTHORITY OF THE SAME, AS
FOLLOWS:

Richard
Lowe
Anna Ngir

Li

1. SHORT TITLE- THIS ACT MAY BE CITED AS THE CITIZENSHIP (WESTERN SAMOA) ACT 1982.
2. INTERPRETATION- IN THIS ACT THE TERM 'NEW ZEALAND' DOES NOT INCLUDE THE COOK ISLANDS, NIUE, OR TOKELAU.
3. CROWN BOUND- THIS ACT BINDS THE CROWN.
4. APPLICATION-(1) SUBJECT TO SUBSECTION (2) OF THIS SECTION, THIS ACT APPLIES TO-
- (A) EVERY PERSON-
- (I) WHO WAS BORN IN WESTERN SAMMOA ON OR AFTER THE 13TH DAY OF MAY 1924 AND BEFORE THE 1ST DAY OF JANUARY 1949., AND
- (II) WHO, IMMEDIATELY BEFORE THE 1ST DAY OF JANUARY 1949, WAS A BRITISH SUBJECT BY VIRTUE ONLY OF HAVING BEEN BORN IN THAT COUNTRY., AND
- (B) EVERY FEMALE WHO, ON THE 1ST DAY OF JANUARY 1949, BECAME A NEW ZEALAND CITIZEN BY VIRTUE ONLY OF HAVING BEEN MARRIED TO ANY PERSON TO WHOM PARAGRAPH (A) OF THIS SUBSECTION APPLIES., AND
- (C) EVERY PERSON-
- (I) WHO IS THE DESCENDANT OF ANY PERSON TO WHOM PARAGRAPH (A) OR PARAGRAPH (B) OR PARAGRAPH (D) OF THIS SUBSECTION APPLIES., AND
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(II) WHO, IF BORN BEFORE THE 1ST DAY OF JANUARY 1949, A BRITISH SUBJECT IMMEDIATELY BEFORE THAT DATE., AND

(D) EVERY FEMALE WHO, ON THE 1ST DAY OF JANUARY 1949, BECAME A NEW ZEALAND CITIZEN BY VIRTUE ONLY OF HAVING BEEN MARRIED TO ANY PERSON TO WHOM

PARAGRAPH (C) OF THIS SUBSECTION APPLIES.

(2) THIS ACT DOES NOT APPLY TO ANY PERSON WHO IS A NEW ZEALAND CITIZEN OTHERWISE THAN BY VIRTUE ONLY OF-

(A) THAT PERSON'S BIRTH IN WESTERN SAMOA AND HIS STATUS AS A BRITISH SUBJECT IMMEDIATELY BEFORE THE 1ST DAY OF JANUARY 1949., OR

(B) THAT PERSON'S DESCENT FROM ANY PERSON TO WHOM PARAGRAPH (A) OR PARAGRAPH (B) OR PARAGRAPH (D) OF SUBSECTION (1) OF THIS SECTION APPLIES., OR

(C) THAT PERSON'S MARRIAGE TO ANY PERSON TO WHOM PARAGRAPH (A) OR PARAGRAPH (C) OF THAT SUBSECTION APPLIES.

5. CERTAIN PERSON DEEMED NEW ZEALAND CITIZEN BY DESCENT - FALEMA'I LESA OF WELLINGTON IS HEREBY DECLARED TO BE AND ALWAYS TO HAVE BEEN A NEW ZEALAND CITIZEN.

6. PERSONS TO WHOM THIS ACT APPLIES NOT NEW ZEALAND CITIZENS - NOTWITHSTANDING ANYTHING IN THE CITIZENSHIP ACT 1977 OR IN ANY OTHER ENACTMENT BUT SUBJECT TO SECTION 5 OF THIS ACT, NO PERSON TO WHOM THIS ACT APPLIES SHALL BE OR BE DEEMED EVER TO HAVE BEEN A NEW ZEALAND CITIZEN.

7. GRANT OF CITIZENSHIP AS OF RIGHT IN CERTAIN CASES-

(1) NOTWITHSTANDING ANYTHING IN SECTION 8 OR SECTION 9 OF THE CITIZENSHIP ACT 1977, THE MINISTER OF INTERNAL AFFAIRS SHALL, UPON APPLICATION MADE TO HIM, AUTHORISE THE GRANT OF NEW ZEALAND CITIZENSHIP TO ANY PERSON WHO PROVES TO THE SATISFACTION OF THE MINISTER-

(A) THAT HE IS A CITIZEN OF WESTERN SAMOA OR A PERSON TO WHOM THIS ACT APPLIES., AND

(B) THAT HE-

(I) WAS IN NEW ZEALAND IMMEDIATELY BEFORE THE COMMENCEMENT OF THIS ACT., OR

(II) HAS LAWFULLY ENTERED NEW ZEALAND AFTER THE COMMENCEMENT OF THIS ACT AND IS ENTITLED, IN TERMS OF THE IMMIGRATION ACT 1964, TO RESIDE IN NEW ZEALAND PERMANENTLY.

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(2) SECTIONS 11 AND 12 OF THE CITIZENSHIP ACT 1977, AND ANY REGULATIONS MADE UNDER THAT ACT, SHALL APPLY WITH ANY NECESSARY MODIFICATIONS IN RESPECT OF AN APPLICATION UNDER SUBSECTION (1) OF THIS SECTION AS IF IT WERE AN APPLICATION UNDER SECTION 10 OF THAT ACT.

8. CERTAIN CONVICTIONS QUASHED- (1) WHERE ANY PERSON TO WHOM THIS ACT APPLIES HAS BEEN CONVICTED, AT ANY TIME BEFORE THE COMMENCEMENT OF THIS ACT, OF AN OFFENCE AGAINST SECTION 5 (1) (A) OF THE IMMIGRATION ACT 1964 OR ANY OF THE PROVISIONS OF PART II (EXCEPT SECTION 19A) OF THAT ACT, OR ANY CORRESPONDING FORMER ENACTMENT, THAT CONVICTION IS HEREBY QUASHED.

(2) NO PERSON TO WHOM THIS ACT APPLIES SHALL BE A PROHIBITED IMMIGRANT FOR THE PURPOSES OF THE IMMIGRATION ACT 1964 MERELY BECAUSE HE HAS BEEN DEPORTED FROM NEW ZEALAND CONSEQUENT UPON HIS CONVICTION OF ANY OFFENCE TO WHICH SUBSECTION (1) OF THIS SECTION APPLIES.

(3) WITHOUT LIMITING OR AFFECTING ANY PRIVILEGE IMMUNITY DEFENCE, OR JUSTIFICATION CONFERRED BY ANY OTHER ENACTMENT OR RULE OF LAW, NO PERSON SHALL BE GUILTY OF AN OFFENCE OR LIABLE TO ANY CIVIL PROCEEDING BY REASON OF ANYTHING DONE IN GOOD FAITH TO OR IN RESPECT OF ANY PERSON TO WHOM THIS ACT APPLIES IN RELATION TO OR ARISING OUT OF ANY MATTER REFERRED TO IN SUBSECTION (1) OF THIS SECTION.

9. SPECIAL PROVISIONS RELATING TO PARENTAGE- (1) FOR THE PURPOSES OF DETERMINING WHETHER ANY PERSON IS OR IS NOT A PERSON TO WHOM THIS ACT APPLIES, EVERY PERSON WHOSE PARENTS MARRIED EACH OTHER SUBSEQUENT TO HIS BIRTH BUT BEFORE THE 1ST DAY OF JANUARY 1978 SHALL BE TREATED AS IF HIS PARENTS HAD BEEN MARRIED TO EACH OTHER AT THE TIME OF HIS BIRTH.

(2) WITHOUT LIMITING SUBSECTION (1) OF THIS SECTION, FOR THE PURPOSES OF DETERMINING WHETHER ANY PERSON, OTHER THAN A PERSON WHO WAS BORN OUTSIDE WESTERN SAMOA BEFORE THE 1ST DAY OF JANUARY 1949, IS OR IS NOT A PERSON TO WHOM THIS ACT APPLIES, -

(A) A PERSON SHALL, IN THE ABSENCE OF EVIDENCE TO THE CONTRARY, BE PRESUMED TO BE THE FATHER OF ANOTHER PERSON IF HIS PATERNITY OF THAT OTHER PERSON HAS BEEN ESTABLISHED BY ONE OR MORE OF THE TYPES OF EVIDENCE SPECIFIED BY SECTION 8 OF THE STATUS OF CHILDREN ACT 1969., AND THE TERM 'FATHER' SHALL BE CONSTRUED ACCORDINGLY:

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(B) A PERSON SHALL BE DEEMED TO BE THE CHILD OF ANOTHER PERSON IF HE HAS BEEN ADOPTED BY THAT OTHER PERSON, EITHER BY AN ADOPTION ORDER WITHIN THE MEANING OF AND MADE UNDER THE ADOPTION ACT 1955 OR BY AN ADOPTION TO WHICH SECTION 17 OF THAT ACT APPLIES., AND-

(I) THE TERMS 'FATHER', 'MOTHER', AND 'PARENT' SHALL BE CONSTRUED ACCORDINGLY., AND

(II) THE PERSON SHALL BE DEEMED TO HAVE BEEN BORN WHEN AND WHERE THE ADOPTION ORDER WAS MADE:

PROVIDED THAT, ON THE DISCHARGE FOR ANY REASON OF THE ADOPTION ORDER IN ACCORDANCE WITH SECTION 22 OF THAT ACT, THE PERSON SHALL CEASE TO BE DEEMED TO BE THE CHILD OF THAT OTHER PERSON.

(3) REFERENCES TO THE STATUS OR DESCRIPTION OF THE FATHER OR MOTHER OF A PERSON AT THE TIME OF THAT PERSON'S BIRTH SHALL, IN RELATION TO A PERSON BORN AFTER THE DEATH OF HIS FATHER OR MOTHER (AS THE CASE MAY REQUIRE), BE CONSTRUED AS REFERRING TO THAT STATUS OR DESCRIPTION OF THE FATHER OR MOTHER AT THE TIME OF HIS OR HER DEATH.

(4) WHERE THE RELEVANT PARENT DIED BEFORE, AND THE PERSON WAS BORN ON OR AFTER, THE 1ST DAY OF JANUARY 1949, THE STATUS OR DESCRIPTION THAT WOULD HAVE BEEN APPLICABLE TO THE PARENT HAD HE OR SHE DIED ON OR AFTER THE 1ST DAY OF JANUARY 1949 SHALL BE DEEMED TO BE THE STATUS OR DESCRIPTION APPLICABLE TO HIM OR HER AT THE TIME OF HIS OR HER DEATH.

(5) WHERE THE RELEVANT PARENT DIED BEFORE, AND THE BIRTH OCCURRED ON OR AFTER, THE 1ST DAY OF JANUARY 1978, THE STATUS OR DESCRIPTION THAT WOULD HAVE BEEN APPLICABLE TO THE PARENT HAD HE OR SHE DIED ON OR AFTER THAT DATE SHALL BE DEEMED TO BE THE STATUS OR DESCRIPTION APPLICABLE TO HIM OR HER AT THE TIME OF HIS OR HER DEATH.

(6)

WITHOUT LIMITING THE FOREGOING PROVISIONS OF THIS SECTION, FOR THE PURPOSES OF DETERMINING WHETHER ANY PERSON IS OR IS NOT A PERSON TO WHOM THIS ACT APPLIES, THE STATUS OF ANY PERSON AT ANY MATERIAL TIME SHALL BE DETERMINED IN ACCORDANCE WITH THE RULES OF LAW THAT APPLIED, OR WERE SUBSEQUENTLY DEEMED TO HAVE APPLIED, AT THAT TIME.

12. ACT IN FORCE IN TOKELAU- THIS ACT SHALL BE IN FORCE IN TOKELAU.

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31/6/2011
RESTR. ED 24 AUG 82

FROM WELLINGTON

TO APIA 1338 IMMEDIATE

RPTD CANBERRA 2948 IMMEDIATE

RESTRICTED

SFA (LGL SPA)

JUSTICE

PMD

WESTERN SAMOA : CITIZENSHIP

OUR TWO IPTS (ONE ONLY TO CANBERRA) REFER.

FOLLOWING ARE SPEECH NOTES OF MINISTER OF JUSTICE USED IN INTRODUCING THE CITIZENSHIP (WESTERN SAMOA) BILL INTO HOUSE THIS AFTERNOON.

BEGINS:

'THIS BILL GIVES EFFECT, FOR THE PURPOSES OF NEW ZEALAND LAW, TO THE PROTOCOL TO THE 1962 TREATY OF FRIENDSHIP THAT WAS ENTERED INTO ON 21 AUGUST (SAMOAN TIME) WITH THE GOVERNMENT OF WESTERN SAMOA.

IT DEALS WITH THE SITUATION THAT HAS ARISEN SINCE THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL DELIVERED ITS DECISION IN THE CASE OF LESA V. ATTORNEY-GENERAL ON 19 JULY 1982.

WHILE THE BACKGROUND TO THIS MATTER IS WELL KNOWN IT IS NONETHELESS APPROPRIATE THAT IT SHOULD BE VERY BRIEFLY TRAVERSED ON THE OCCASION OF THE INTRODUCTION OF THE BILL WHICH I WOULD PROPOSE BE REFERRED TO THE FOREIGN AFFAIRS SELECT COMMITTEE.

NEVER IN OUR HISTORY HAS THERE BEEN UNRESTRICTED ENTRY INTO NEW ZEALAND FOR THOSE PEOPLE LIVING IN WESTERN SAMOA.

HOWEVER GOVERNMENT POLICIES FOR MANY YEARS HAVE ALLOWED FOR A SUBSTANTIAL NUMBER OF WESTERN SAMOANS TO TAKE UP PERMANENT RESIDENCE IN NEW ZEALAND.

THIS QUOTA HAS BEEN VARIED FROM TIME TO TIME AS OUR ECONOMIC CIRCUMSTANCES AND ESPECIALLY OUR EMPLOYMENT LEVELS., HAVE DICTATED.

PERHAPS IT SHOULD BE EMPHASISED THAT THE QUOTA SYSTEM IS UNIQUE.

THERE IS NO OTHER COUNTRY WHOSE RESIDENTS ARE NOT NEW ZEALAND CITIZENS BUT WHO ARE NONETHELESS, REGARDLESS OF THEIR SKILLS, ACCORDED ENTRY INTO NEW ZEALAND AS PART OF A QUOTA THAT IS OVER AND ABOVE THE TIGHT IMMIGRATION CRITERIA THAT WOULD OTHERWISE

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NORMALLY APPLY TO THEIR APPLICATION.

IN ADDITION OTHER SAMOANS HAVE COME TO NEW ZEALAND TEMPORARILY AS VISITORS, UNDER THE WORK PERMIT SCHEME SINCE 1977 AND FOR OTHER PARTICULAR PURPOSES.

SOME WHO HAVE COME TEMPORARILY HAVE SUBSEQUENTLY BEEN GRANTED PERMANENT RESIDENCE.

OTHERS REMAINED IN NEW ZEALAND AFTER THEIR PERMITS EXPIRED.

IN TERMS OF THE LAW, AS IT WAS THEN UNDERSTOOD TO BE, THEY BECAME ILLEGAL IMMIGRANTS - IN POPULAR LANGUAGE 'OVERSTAYERS'.

THOSE WHO WERE DISCOVERED WERE PROSECUTED AND ON BEING CONVICTED OF A BREACH OF THE IMMIGRATION LAWS WERE DEPORTED.

MISS LESA WAS AN 'OVERSTAYER'.

SHE WAS DULY CHARGED.

SHE CLAIMED HOWEVER THAT SHE WAS NOT LIABLE TO CONVICTION OR DEPORTATION BECAUSE, ALTHOUGH BORN IN WESTERN SAMOA, SHE WAS A NEW ZEALAND CITIZEN.

SHE ARGUED THAT UNDER NEW ZEALAND LAW ALL PERSONS BORN IN SAMOA BETWEEN 1928 (WHEN THE BRITISH NATIONALITY AND STATUS OF ALIENS (IN NEW ZEALAND) ACT CAME INTO FORCE), AND 1 JANUARY 1949, (THE COMMENCEMENT DATE OF THE BRITISH NATIONALITY AND NEW ZEALAND CITIZENSHIP ACT 1948) WERE NATURAL BORN BRITISH SUBJECTS AND BECAME NEW ZEALAND CITIZENS BY VIRTUE OF THE 1948 ACT.

AS A NEW ZEALAND CITIZEN SHE COULD NOT BE DEPORTED FROM THIS COUNTRY.

OUR COURT OF APPEAL HAD REJECTED A SIMILAR CONTENTION IN THE 1979 CASE OF LEVAVE V IMMIGRATION DEPARTMENT. IN FACT IN THE LESA CASE THE JUDGES OF THE COURT OF APPEAL HAD DESCRIBED THE PROPOSITION AS 'INCONCEIVABLE'.

THE LEVAVE CASE WAS A CRIMINAL MATTER ORIGINATING IN THE DISTRICT COURT.

IN SUCH CASES THE COURT OF APPEAL IS THE FINAL APPEAL AUTHORITY. TO ENABLE MISS LESA'S CASE TO BE BROUGHT BEFORE THE PRIVY COUNCIL SHE APPLIED FOR A DECLARATION AS TO THE INTERPRETATION OF THE 1928 ACT.

ON 19 JULY THE PRIVY COUNCIL DELIVERED ITS DECISION.

MUCH TO THE SURPRISE OF MOST OF US IT OVERRULED THE COURT OF APPEAL

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RESTRICTED PAGE 3/1338

AND UPHELD MISS LESA'S CLAIM THAT SHE WAS A BRITISH SUBJECT IN 1948 AND HENCE A NEW ZEALAND CITIZEN NOW.

I SHOULD EXPLAIN THAT ALTHOUGH THE LESA DECISION WAS BASED ON THE 1928 ACT IT IS ALMOST CERTAIN THAT, APPLYING THE SAME REASONING, AN IDENTICAL RESULT WOULD ALSO ARISE UNDER THE PREVIOUS 1923 ACT. THE PRIVY COUNCIL'S INTERPRETATION OF THE 1928 ACT REMAINS AS THE LAW OF NEW ZEALAND UNLESS AND UNTIL LEGISLATION REVERSES IT. INDEED IF THE LAW AS DECLARED BY THE PRIVY COUNCIL IS TO BE CHANGED THAT CAN ONLY BE DONE BY LEGISLATION. AS LORD DARLING SAID WHEN DELIVERING THE JUDGMENT OF THE JUDICIAL COMMITTEE IN THE CASE OF ABEYESEKERA V. JAYATILAKE (1932) AC 260, 267:

'IT MAY BE TRUE THAT' NOT JOVE HIMSELF UPON THE PAST HATH POWER', BUT LEGISLATORS HAVE CERTAINLY THE RIGHT TO PREVENT, ALTER OR REVERSE THE CONSEQUENCES OF THEIR PAST DECREES.'

IT WOULD THEREFORE BE POINTLESS FOR ME ON THIS OCCASION TO SPECULATE WHETHER THE PRIVY COUNCIL'S DECISION IN THE LESA CASE IS LEGALLY SOUND., I MAY DO THAT AT SOME OTHER TIME.

I CAN HOWEVER SAY CATEGORICALLY THAT IT DID NOT ACCORD WITH THE PAST UNDERSTANDING OF THE LAW EITHER IN NEW ZEALAND OR IN SAMOA., AN UNDERSTANDING THAT HAS CONSISTENTLY SHAPED BOTH LEGISLATION AND PRACTICE IN BOTH COUNTRIES.

FOR 60 YEARS NO ONE HAD BELIEVED THAT PERSONS OF WESTERN SAMOAN ORIGIN IN WESTERN SAMOA WERE AT ANY TIME, OR SHOULD HAVE BEEN, BRITISH SUBJECTS OWING ALLEGIANCE TO THE BRITISH CROWN.

CERTAINLY THE SAMOAN WORKING COMMITTEE ON SELF GOVERNMENT WAS FIRMLY OF THE VIEW, NOT ONLY THAT UPON INDEPENDENCE SAMOANS SHOULD HAVE THEIR OWN SEPARATE SAMOAN CITIZENSHIP, AS BEFITTED THE CITIZENS OF A SOVEREIGN INDEPENDENT STATE, BUT ALSO THAT THEY SHOULD NOT HOLD THE CITIZENSHIP OF ANY OTHER STATE.

THE CITIZENSHIP OF WESTERN SAMOA ORDINANCE OF 1959 REFLECTED THIS VIEW., AND FOR THE 20 YEARS SINCE INDEPENDENCE THE GOVERNMENTS AND PEOPLE OF WESTERN SAMOA AND NEW ZEALAND HAVE PROCEEDED UPON THE CLEAR BASIS THAT WESTERN SAMOAN CITIZENSHIP AND NEW ZEALAND CITIZENSHIP WERE QUITE SEPARATE AND DISTINCT.

THE PRIVY COUNCIL DECISION WAS BASED SOLELY ON A LEGAL CONSTRUCTION OF THE RELEVANT ACTS OF THE NEW ZEALAND PARLIAMENT AND DID NOT TAKE

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* "But what has been, has been
And I have had my hour"

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INTO ACCOUNT ANY MATTERS OF INTERNATIONAL LAW, AND PRACTICE, NOR OBVIOUSLY THE LAW OF WESTERN SAMOA.

WHAT THAT DECISION MEANT, HOWEVER, WAS THAT THOSE STATUTES PRODUCED AN UNINTENDED RESULT THAT IS CONTRARY TO THE FIRM VIEW EXPRESSED BY THE LEAGUE OF NATIONS THAT THE INHABITANTS OF MANDATED TERRITORIES DID NOT AND SHOULD NOT AUTOMATICALLY BECOME INVESTED WITH THE CITIZENSHIP OF THE MANDATORY COUNTRY.

THAT RESULT WAS ALSO CONTRARY TO THE ASSURANCE GIVEN BY THE NEW ZEALAND GOVERNMENT TO THE LEAGUE THAT SAMOANS WERE NOT BRITISH SUBJECTS.

IT WAS CONTRARY TO THE ASSUMPTIONS UPON WHICH THE SAMOAN WORKING COMMITTEE ON SELF GOVERNMENT BASED ITS WORK AND UPON WHICH THE ACT OF INDEPENDENCE PROCEEDED.

IT WAS CONTRARY TO THE GENERAL PRACTICE THROUGHOUT THE COMMONWEALTH, AFTER THE ABANDONMENT OF THE COMMON CODE RELATING TO THE STATUS OF BRITISH SUBJECTS, THAT INHABITANTS OF EACH COUNTRY WHICH BECAME INDEPENDENT WOULD CEASE TO BE CITIZENS OR PROTECTED PERSONS OF THE FORMER COLONIAL POWER AND WOULD ACQUIRE THEIR OWN SEPARATE CITIZENSHIP.

FINALLY, IT WAS CONTRARY TO THE BASIS ON WHICH THE WESTERN SAMOAN AND NEW ZEALAND GOVERNMENTS AND THE PEOPLE OF EACH COUNTRY HAD CONDUCTED THEIR AFFAIRS SINCE WESTERN SAMOA'S INDEPENDENCE IN 1962. INDEED HAD THE NEW ZEALAND PARLIAMENT IN 1982 MOVED TO PASS A LAW THAT HAD PRECISELY THE SAME EFFECT AS THE PRIVY COUNCIL DECISION THAT WOULD ALMOST CERTAINLY - AND VERY PROPERLY - HAVE BEEN REGARDED BY THE GOVERNMENT AND PEOPLE OF WESTERN SAMOA AS AN UNFRIENDLY ACT TOWARDS A SOVEREIGN AND INDEPENDENT STATE.

MOREOVER, AS CONSTRUED BY THE PRIVY COUNCIL, THE NEW ZEALAND STATUTE OF 1928 NOT ONLY FAILED TO PRODUCE THE RESULT GENERALLY BELIEVED OF IT BUT ALSO GAVE RISE TO A SITUATION WHICH, IF LEFT UNREMEDIED, WOULD HAVE HAD SERIOUS AND FAR-REACHING IMPLICATIONS FOR BOTH NEW ZEALAND AND WESTERN SAMOA.

PRECISELY HOW MANY PEOPLE HAVE THE STATUS OF NEW ZEALAND CITIZENS AS A RESULT OF THE DECISION IS UNCERTAIN.

THE BEST ESTIMATES BY BOTH GOVERNMENTS ARE SOMETHING OF THE ORDER OF 100,000 PEOPLE - OVER THREE FIFTHS OF THE PRESENT TOTAL

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POPULATION OF WESTERN SAMOA (160,000).

A CAREFUL ANALYSIS OF THE LAW HAS REVEALED THAT 11 SEPARATE CLASSES OF PEOPLE COULD HAVE BECOME NEW ZEALAND CITIZENS BY VIRTUE OF THE DECISION.

SOME OF THESE GROUPS ARE VERY SMALL IN NUMBER.

HOWEVER, THE PRINCIPAL CATEGORIES ARE:

1. ALL PERSONS BORN IN WESTERN SAMOA BETWEEN MAY 1924 AND THE END OF 1948.,

2. ALL CHILDREN BORN IN WEDLOCK AT ANY TIME OF A FATHER WHO HAD HIMSELF BEEN BORN IN WESTERN SAMOA DURING THAT PERIOD., AND

3. THE WIVES OF ANY SUCH PERSONS, IF MARRIED TO THEM BEFORE 1949. CONFRONTED WITH WHAT COULD NOT UNFAIRLY BE DESCRIBED AS A

,'CONSTITUTIONAL BOMBHELL'', IT INITIALLY APPEARED THAT THE OPTIONS FACING THE GOVERNMENT WERE THESE:

FIRST, TO DO NOTHING AND LET THE DECISION HAVE ITS EFFECT.

THAT WAS SIMPLY NOT ACCEPTABLE TO THE GOVERNMENT, NOR I ADD TO EITHER OF THE OPPOSITION PARTIES.

EVEN THOUGH THERE WAS NO EVIDENCE OF AN IMMEDIATE WAVE OF MIGRATION FROM SAMOA TO NEW ZEALAND, WE SIMPLY COULD NOT LIVE WITH A

SITUATION WHERE SCORES OF THOUSANDS OF PEOPLE BORN AND LIVING OUTSIDE NEW ZEALAND COULD AT ANY TIME COME AND RESIDE HERE AND

INEVITABLY MAKE CLAIMS ON OUR RESOURCES AND OUR FACILITIES.

VIRTUALLY EVERY COUNTRY - INCLUDING WESTERN SAMOA - IMPOSES RESTRICTIONS ON ENTRY BY IMMIGRANTS.

NO COUNTRY COULD OPERATE ITS IMMIGRATION POLICY ON THE ASSUMPTION THAT IF THERE WERE NO RESTRICTIONS PEOPLE WOULD NOT SEEK TO COME

TO LIVE HERE ON A PERMANENT BASIS.

SECOND, TO ACCEPT THE DECISION BUT TO CONTINUE TO RESTRICT ENTRY OF PERSONS FROM WESTERN SAMOA.

THAT PRESENTED SERIOUS DISADVANTAGES BOTH OF PRINCIPLE AND OF ADMINISTRATION.

IT WOULD IMMEDIATELY CREATE TWO CLASSES OF NEW ZEALAND CITIZENS, ONE WITH INFERIOR RIGHTS.

THIRD, TO RESTORE THE LAW AS IT WAS THOUGHT TO BE BEFORE THE DECISION BY PARLIAMENT PASSING A LAW TO THAT EFFECT.

FACED WITH THIS SITUATION AND WITH THESE APPARENT ALTERNATIVES AND

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IN VIEW OF THE FACT THAT THE PROBLEM AROSE SOLELY BECAUSE OF A SEEMING DEFICIENCY IN AN EARLY NEW ZEALAND STATUTE THE NEW ZEALAND GOVERNMENT COULD SIMPLY AND WITH CONSIDERABLE JUSTIFICATION, HAVE PROMOTED LEGISLATION TO RECTIFY THE SITUATION.

HOWEVER, IN VIEW OF THE CLOSE RELATIONSHIP BETWEEN NEW ZEALAND AND WESTERN SAMOA AND BECAUSE THE PRIVY COUNCIL'S DECISION ALSO HAD IMPLICATIONS FOR WESTERN SAMOA, EVEN THOUGH IT RELATED SOLELY TO NEW ZEALAND LAW, RATHER THAN BRING DOWN INSTANT LEGISLATION THE GOVERNMENT DECIDED TO CONSULT WITH THE GOVERNMENT OF WESTERN SAMOA TO TRY AND FIND A RESPONSE THAT BOTH COUNTRIES COULD ACCEPT. WE DID NOT WANT NEW ZEALAND SIMPLY TO IMPOSE OUR IDEAS AND PURSUE OUR INTERESTS UNILATERALLY.

IN THE SPIRIT OF THE 1962 TREATY OF FRIENDSHIP BETWEEN SAMOA AND NEW ZEALAND WE SAT DOWN TO TALK TO EACH OTHER.

THE GOVERNMENT ALSO TOOK THE OPPOSITION PARTIES INTO ITS CONFIDENCE. FROM ALL THESE TALKS EMERGED THE PROTOCOL WHICH I SIGNED FOR NEW ZEALAND ON 21 AUGUST 1982 (SAMOAN TIME).

THAT PROTOCOL WHICH WAS TABLED IN THE HOUSE THIS AFTERNOON CONTAINS THREE PRINCIPAL PROVISIONS:

1. THE TWO GOVERNMENTS UNDERTAKE ON REQUEST TO CONSULT ON ANY ISSUE RELATING TO THE OPERATION OF CITIZENSHIP AND IMMIGRATION LAWS.
2. NEW ZEALAND WILL GIVE WESTERN SAMOAN CITIZENS IN NEW ZEALAND THE RIGHT TO BECOME NEW ZEALAND CITIZENS IMMEDIATELY ON APPLICATION.
3. NEW ZEALAND WILL GIVE THE SAME RIGHT TO WESTERN SAMOANS WHO ARE SUBSEQUENTLY GRANTED PERMANENT RESIDENCE IN NEW ZEALAND.

MEMBERS WILL APPRECIATE THAT THIS IS A WIDER APPROACH THAN SIMPLY PROTECTING THE STATUS OF THOSE IN NEW ZEALAND WHO THE LESA DECISION DECLARES TO BE NEW ZEALAND CITIZENS.

TO SORT OUT WHO WOULD BE ENTITLED IN TERMS OF THE DECISION WOULD BE A VERY DIFFICULT ADMINISTRATIVE TASK, AND SO THIS BILL COVERS ALL WESTERN SAMOAN CITIZENS WHO ARE IN NEW ZEALAND AT ITS COMMENCEMENT.

AGAINST THAT BACKGROUND, I COME NOW TO THE DETAILED PROVISIONS OF THE BILL ITSELF.

IT WILL COME INTO FORCE ON THE DAY IT IS ASSENTED TO.

CLAUSE 1 IS THE SHORT TITLE AND CLAUSE 2 MAKES IT CLEAR THAT NEW

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ZEALAND FOR THE PURPOSES OF THE BILL DOES NOT INCLUDE THE COOK ISLANDS, NIUE OR TOKELAU.

CLAUSE 3 PROVIDES THAT THE ACT SHALL BIND THE CROWN.

CLAUSE 4 DEFINES THE PERSONS TO WHOM THE ACT IS TO APPLY.

CLAUSE 6 STATES THAT THESE PERSONS ARE NOT TO BE NEW ZEALAND CITIZENS, THEREBY REVERSING THE EFFECT OF THE JUDICIAL COMMITTEE'S DECISION.

IT MUST BE EMPHASISED THAT THIS WILL NOT MAKE ANYONE STATELESS. THOSE AFFECTED ARE AND WILL REMAIN CITIZENS OF WESTERN SAMOA, AS THEY HAVE ALWAYS BELIEVED THEMSELVES TO BE. SAMOA IS THEIR COUNTRY.

CLAUSE 7 THEN MODIFIES THIS IN THREE IMPORTANT WAYS.

IT GIVES ALL WESTERN SAMOANS WHO WILL BE IN NEW ZEALAND AT THE COMMENCEMENT OF THE ACT THE RIGHT TO APPLY FOR AND OBTAIN NEW ZEALAND CITIZENSHIP.

THEY WILL NOT HAVE CITIZENSHIP FORCED UPON THEM.

IT WILL BE A MATTER FOR THEM.

THOSE WHO CHOOSE TO BECOME NEW ZEALAND CITIZENS WILL AS SUCH HAVE THE RIGHT TO REMAIN HERE, THE RIGHT TO A NEW ZEALAND PASSPORT AND THE RIGHT TO COME AND GO AS THEY PLEASE.

THE POSITION OF WESTERN SAMOANS WHO ARE NOT IN NEW ZEALAND WILL NOT BE CHANGED FROM THE PREVIOUS LAW AND PRACTICE AS IT WAS ALWAYS UNDERSTOOD TO BE.

THE BILL LEAVES EXISTING ARRANGEMENTS TO CONTINUE SUBJECT TO CERTAIN ADMINISTRATIVE MODIFICATIONS WHICH I WILL EXPLAIN LATER. BUT THOSE SAMOANS WHO ARE GRANTED PERMANENT RESIDENCE IN FUTURE WILL BE ABLE TO APPLY AS OF RIGHT FOR IMMEDIATE NEW ZEALAND CITIZENSHIP.

THE EFFECT OF CLAUSE 7 IS GENERAL.

IT IS NOT LIMITED TO THOSE WHO BECAME CITIZENS IN TERMS OF THE JUDICIAL COMMITTEE'S DECISION.

THUS IT RECOGNISES MORE AMPLY THAN BEFORE THE SPECIAL RELATIONSHIP BETWEEN WESTERN SAMOA AND NEW ZEALAND TO WHICH, I CAN ASSURE THE HOUSE, THE SAMOANS THEMSELVES ATTACH GREAT IMPORTANCE.

IN OTHER WORDS WE HAVE TAKEN THE OPPORTUNITY TO MOVE BEYOND THE DECISION ITSELF AND RESPOND IN A GENEROUS AND POSITIVE FASHION.

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THERE IS ANOTHER GROUP OF PEOPLE WHOSE SITUATION NEEDS TO BE COVERED.

THEY ARE DEALT WITH IN CLAUSE 8.

OVER THE YEARS A NUMBER OF SAMOAN 'OVERSTAYERS' HAVE BEEN DEPORTED FROM NEW ZEALAND.

SINCE 1968 THERE HAVE BEEN 753.

HAVING BEEN DEPORTED THEY BECAME PROHIBITED IMMIGRANTS FOR THE FUTURE.

IN TERMS OF THE LESA DECISION THEIR CONVICTIONS AND DEPORTATIONS BECAME INVALID AND THEY COULD APPLY FOR A REHEARING OF THE ORIGINAL CHARGE WHICH IF GRANTED (AS IT PROBABLY WOULD BE) WOULD RESULT IN THE CHARGE BEING DISMISSED.

TO REVIVE THOSE CONVICTIONS BY LEGISLATION WOULD IN OUR VIEW BE WRONG.

CLAUSE 8 THEREFORE QUASHES THE CONVICTIONS OF THOSE AFFECTED (WHILE PROTECTING ALL THOSE WHO HAVE ACTED IN GOOD FAITH ON THE BASIS OF WHAT WAS THOUGHT TO BE THE LAW) AND REMOVES THEIR STATUS AS PROHIBITED IMMIGRANTS.

IT DOES NOT GIVE THEM A PREFERENTIAL RIGHT TO RETURN BUT DOES ENABLE THEM TO APPLY FOR ENTRY TO NEW ZEALAND ON AN EQUAL FOOTING TO OTHERS.

I STRESS HOWEVER THAT THIS DOES NOT EXTEND TO PERSONS WHO HAVE BEEN DEPORTED AS A RESULT OF A CONVICTION FOR OFFENCES AGAINST THE ORDINARY CRIMINAL LAW.

THEY ARE AND WILL REMAIN PROHIBITED IMMIGRANTS.

BY ITSELF CLAUSE 8 WOULD DISCRIMINATE AGAINST SAMOAN OVERSTAYERS WHO HAVE LEFT VOLUNTARILY WITHOUT BEING DEPORTED.

THEY SHOULD NOT BE WORSE OFF THAN DEPORTEES.

THERE IS NO LEGAL BAR TO THEIR RE-ENTRY AND THE BILL DOES NOT DEAL WITH THEM.

THEY HAVE HOWEVER BEEN PUT ON AN ADMINISTRATIVE LIST OF PERSONS WHO WERE EFFECTIVELY DENIED RE-ENTRY TO NEW ZEALAND FOR A PERIOD OF UP TO FIVE YEARS.

THAT LIST WILL BE DISCONTINUED.

CLAUSE 9 IS A TECHNICAL AND ANCILLARY CLAUSE TAKEN FROM THE CITIZENSHIP ACT 1977 AND DEALING WITH THE ESTABLISHMENT OF PARENTAGE.

I DO NOT THINK I NEED GO INTO IT IN DETAIL.

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IT IS NEEDED BECAUSE THE BILL IS SELF CONTAINED AND IS NOT AN AMENDMENT TO OUR CITIZENSHIP ACT.

CLAUSE 10 DECLARES THAT THE ACT IS IN FORCE IN TOKELAU.

I WANT TO EMPHASISE THAT THE PROPOSED NEW ZEALAND LEGISLATION WILL NOT HAVE THE INTENTION OR THE EFFECT OF TAKING AWAY RIGHTS PREVIOUSLY EXERCISED BY ANYONE.

ON THE CONTRARY THE LEGISLATION WILL ACCORD TO A LARGE NUMBER OF WESTERN SAMOANS (THOSE CURRENTLY IN NEW ZEALAND AND THOSE ACCEPTED FOR PERMANENT RESIDENCE IN THE FUTURE) A RIGHT WHICH GENERALLY NO ONE HAD PREVIOUSLY BELIEVED THEY POSSESSED AND WHICH CERTAINLY THEY HAD NEVER EXERCISED.

THE EFFECT OF THE LEGISLATION WILL ALSO BE TO ACHIEVE A RESULT WHICH ALL CONCERNED HAD ASSUMED TO HAVE BEEN ACCOMPLISHED WHEN WESTERN SAMOA BECAME INDEPENDENT IN 1962 - THAT IS, THE EXCHANGE BY THE INHABITANTS OF WESTERN SAMOA OF THEIR PREVIOUS STATUS FOR THE STATUS OF CITIZENS OF THE SOVEREIGN INDEPENDENT STATE OF WESTERN SAMOA.

I AM CERTAIN THAT THE AGREEMENT THAT HAS BEEN REACHED WAS ONLY MADE POSSIBLE BECAUSE OF THE CLOSE AND EFFECTIVE RELATIONSHIP THAT HAS DEVELOPED BETWEEN NEW ZEALAND AND WESTERN SAMOA SINCE 1962. AS I SAID AT THE SIGNING CEREMONY THE PROTOCOL IS IN FACT AN INDICATION OF THE MATURITY OF THAT RELATIONSHIP.

MORE FULLY THAN BEFORE WE IN NEW ZEALAND HAVE RECOGNISED OUR SPECIAL RELATIONSHIP WITH WESTERN SAMOA.

WHILE I CERTAINLY CANNOT PRETEND TO SPEAK FOR THE GOVERNMENT AND PEOPLE OF SAMOA, I FOUND IT GRATIFYING THAT SAMOANS MIGHT HAVE BEEN EAGER TO ACCEPT THE ADDITIONAL STATUS OF NEW ZEALAND CITIZENS THAT WAS, SO TO SPEAK, THRUST ON THEM.

THERE ARE FEW FORMER DEPENDENT TERRITORIES IN THE WORLD WHERE A SIMILAR DECISION MIGHT HAVE BEEN WELCOMED.

PLAINLY THE SAMOAN PEOPLE VALUE THEIR ASSOCIATION WITH NEW ZEALAND., IT IS UP TO US TO SEE THAT WE ALSO VALUE THAT ASSOCIATION AND THAT WE LIVE IN ACCORDANCE WITH ITS IMPLICATIONS.

IT IS IN THIS SPIRIT THAT I COMMEND THE BILL TO THE HOUSE."

ENDS.

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311/6/2011

CONFIDENTIAL 25 AUG 82
FROM WELLINGTON
TO APIA 1342 . IMMEDIATE

PMD
MINISTER OF JUSTICE
MINISTER OF FOREIGN AFFAIRS,
JUSTICE
INTERNAL
LABOUR
SOLICITOR- GENERAL
SFA (LGL SPA AUS)

CITIZENSHIP

SET OUT BELOW IS A LETTER FROM THE PRIME MINISTER TO VA'AI KOLONE.
PLEASE PASS IT TO VA'AI AS SOON AS PRACTICABLE.
THE ORIGINAL WILL BE SENT BY BAG. YOU WILL RECALL THAT THE SAMOAN
CABINET ASKED FOR SUCH A LETTER CONFIRMING IN PARTICULAR THAT
LEGISLATION WAS NECESSARY TO GIVE EFFECT TO THE PROTOCOL.

BEGINS:

25 AUGUST 1982

PRIME MINISTER VA'AI KOLONE

MY DEAR PRIME MINISTER,
I WAS VERY SORRY TO HEAR THAT YOU HAVE NOT BEEN WELL SINCE YOUR
RETURN TO WESTERN SAMOA FROM NEW ZEALAND. PLEASE ACCEPT MY BEST
WISHES FOR A SPEEDY RECOVERY.

MY ATTORNEY-GENERAL, MR MCLAY, HAS NOW REPORTED TO ME FOLLOWING
HIS RETURN FROM APIA. I MUST IMMEDIATELY EXPRESS MY THANKS TO
YOU, AND THROUGH YOU TO YOUR DEPUTY PRIME MINISTER AND TO YOUR
OTHER CABINET COLLEAGUES, FOR THE COURTEOUS WAY IN WHICH HE WAS
RECEIVED.

MR MCLAY HAS TOLD ME OF THE EXTENSIVE DISCUSSIONS HE HELD WITH
YOUR CABINET. HE CONFIRMED IN THOSE DISCUSSIONS YOUR COLLEAGUES
EXPLORED WITH HIM ALL THE IMPLICATIONS OF THE RECENT PRIVY COUNCIL
DECISION BOTH FOR WESTERN SAMOA AND FOR NEW ZEALAND AS YOU AND I
WERE ABLE TO EXPLORE THEM DURING OUR DISCUSSIONS IN WELLINGTON.
THE FACT THAT FOLLOWING THEIR DISCUSSIONS YOUR DEPUTY PRIME
MINISTER AND MR MCLAY SIGNED THE PROTOCOL TO THE 1962 TREATY OF
FRIENDSHIP BETWEEN WESTERN SAMOA AND NEW ZEALAND REFLECTS THE

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Richard
Wright
Thompson

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CONCLUSION OF BOTH OUR GOVERNMENTS, AFTER FULL CONSIDERATION, THAT THE PROVISIONS IT CONTAINS REPRESENT THE BEST POSSIBLE SOLUTION, IN FACT I THINK THE ONLY SOLUTION, TO THE PROBLEMS WHICH CONFRONTED OUR GOVERNMENTS IN THE WAKE OF THE PRIVY COUNCIL DECISION. AS YOU KNOW, AT THE TIME OF MY TALKS WITH YOU IN WELLINGTON, WE IN THE NEW ZEALAND GOVERNMENT HAD ARRIVED AT THE CONCLUSION THAT SUCH A SOLUTION WAS THE BEST POSSIBLE, BUT WE WANTED YOU AND YOUR COLLEAGUES TO HAVE ALL THE TIME YOU NEED TO CONSIDER THE MATTER FULLY. WE WERE PLEASED, OF COURSE, BUT NOT SURPRISED, THAT YOU AND THE MEMBERS OF YOUR CABINET FAIRLY QUICKLY REACHED THE SAME CONCLUSION.

AS WE DISCUSSED IN WELLINGTON, THERE WAS ABSOLUTELY NO DOUBT THAT MY GOVERNMENT HAD TO PROMOTE LEGISLATION IN THE WAKE OF THE PRIVY COUNCIL DECISION TO GIVE EFFECT TO THE PROTOCOL. IN FACT LEGISLATION IS PARTICULARLY NECESSARY IN SO FAR AS THE PROTOCOL GIVES ADDITIONAL RIGHTS TO PERSONS NOT COVERED BY THE PRIVY COUNCIL DECISION. WE CAN NOW PROCEED HOWEVER IN THE KNOWLEDGE THAT THE LEGISLATION REFLECTS A SOLUTION TO THE PROBLEM WHICH HAS BEEN EXTENSIVELY DISCUSSED BETWEEN OUR TWO GOVERNMENTS AND WHICH IS REGARDED BY BOTH AS IN THE BEST INTERESTS OF WESTERN SAMOA AND NEW ZEALAND.

THE CO-OPERATIVE WAY IN WHICH WE HAVE WORKED TOGETHER TO ARRIVE AT A MUTUALLY SATISFACTORY SOLUTION ON THIS ISSUE IS FURTHER EVIDENCE, IF ANY WERE NEEDED, OF THE TRUE SPIRIT OF THE RELATIONSHIP BETWEEN OUR TWO COUNTRIES. IT IS ACCORDINGLY ENTIRELY APPROPRIATE THAT THE SOLUTION SHOULD BE EMBODIED IN A PROTOCOL TO THE 1962 TREATY OF FRIENDSHIP WHICH HAS SO SUCCESSFULLY GUIDED OUR RELATIONSHIP IN THE 20 YEARS SINCE WESTERN SAMOAN INDEPENDENCE. I HAVE NO DOUBT THAT THE PROTOCOL LIKE THE TREATY OF WHICH IT FORMS A PART WILL FOSTER RELATIONS BETWEEN OUR TWO COUNTRIES IN THE YEARS AHEAD.

YOURS SINCERELY

R D MULDOON

PRIME MINISTER

ENDS:-

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CONFIDENTIAL

31/6/2011

CONFIDENTIAL

CONFIDENTIAL 25 AUG 82

FROM WELLINGTON

TO APIA 1344

- PRIORITY -

RPTD CANBERRA 2976

- PRIORITY -

URGENT

P M D

JUSTICE (MRS LOWE)

SECLAB (BOND)

INTERNAL (MCLAY)

CROWN LAW (NEAZOR)

SFA (LGL SPA AUS CON)

WESTERN SAMOA : CITIZENSHIP

OUR 1336 REFERS.

THE CITIZENSHIP (WESTERN SAMOA) BILL WAS INTRODUCED INTO PARLIAMENT YESTERDAY AND AFTER A SHORT DEBATE WAS REFERRED TO THE FOREIGN AFFAIRS SELECT COMMITTEE. THE COMMITTEE CONSIDERED THE BILL THIS MORNING AND HAS ANNOUNCED THAT IT WILL HEAR SUBMISSIONS ON THE BILL FROM THE PUBLIC ON OUR TUESDAY AND WEDNESDAY (31 AUGUST, 1 SEPTEMBER)

2. AT THE MOMENT IT IS HOPED THAT THE BILL WILL BE REPORTED BACK TO THE HOUSE AND WILL COMPLETE ITS PASSAGE THROUGH PARLIAMENT BY THE END OF NEXT WEEK. WE WILL SEEK CABINET APPROVAL TO EXCHANGE INSTRUMENTS OF RATIFICATION AS SOON AS POSSIBLE THEREAFTER.

3. WE CANNOT PREDICT DEVELOPMENTS WITH ANY CERTAINTY, HOWEVER, BUT WILL KEEP YOU INFORMED. IN THE MEANTIME WE ARE PREPARING AN INSTRUMENT OF RATIFICATION AND SHALL SEND IT UP TO YOU SO THAT IT MAY BE EXCHANGED AS SOON AS CABINET APPROVAL HAS BEEN OBTAINED

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Richard
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Heine
CONFIDENTIAL

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25/0700Z WLN TGA

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RESTRICTED 27 AUG 82

FROM WELLINGTON

TO RAROTONGA 637, NIUE 295

-PRIORITY-

RPTD TOKALANI 234, APIA 1355

-PRIORITY-

RESTRICTED

PMD

JUSTICE (MRS LOWE)

INTERNAL (MCLAY)

CROWN LAW (NEAZOR)

SECLAB (BOND)

SFA (LGL, SPA)

WESTERN SAMOA : CITIZENSHIP

YOU WILL HAVE SEEN FROM ITEM ONE OF TELEX NEWS SUMMARY OF 25 AUGUST THAT IN THE LIGHT OF THE RECENT PRIVY COUNCIL DECISION ON WESTERN SAMOAN RIGHTS TO NEW ZEALAND CITIZENSHIP, THE NEW ZEALAND AND WESTERN SAMOAN GOVERNMENTS HAVE SIGNED A PROTOCOL TO THE 1962 TREATY OF FRIENDSHIP, AND LEGISLATION - THE CITIZENSHIP (WESTERN SAMOA) BILL - HAS BEEN INTRODUCED INTO PARLIAMENT TO REVERSE MANY OF THE EFFECTS OF THE PRIVY COUNCIL DECISION AND TO GIVE EFFECT TO THE PROTOCOL.

2. THE BILL HAS BEEN REFERRED TO THE FOREIGN AFFAIRS SELECT COMMITTEE WHICH WILL BE HEARING SUBMISSIONS FROM THE PUBLIC ON OUR TUESDAY AND WEDNESDAY NEXT WEEK AND, ALTHOUGH WE CANNOT PREDICT DEVELOPMENTS WITH CERTAINTY, IT IS POSSIBLE THE BILL WILL COMPLETE ITS PASSAGE THROUGH THE HOUSE BY THE END OF NEXT WEEK.

3. THE MAIN EFFECT OF THE BILL IS TO PROVIDE (A) THAT THE WESTERN SAMOANS COVERED BY THE PRIVY COUNCIL DECISION ARE NOT AND ARE DEEMED NEVER TO HAVE BEEN NEW ZEALAND CITIZENS, AND (B) THAT ALL WESTERN SAMOANS IN NEW ZEALAND IMMEDIATELY BEFORE THE BILL ENTERS INTO FORCE AND ALL SAMOANS WHO SUBSEQUENTLY QUALIFY FOR PERMANENT RESIDENCE STATUS ARE GRANTED THE RIGHT TO APPLY FOR NEW ZEALAND CITIZENSHIP.

4. ONE EFFECT OF THE BILL, THEREFORE, WILL BE TO ALTER THE SCOPE OF NEW ZEALAND CITIZENSHIP AS DEFINED IN THE CITIZENSHIP ACT 1977 WHICH IS IN FORCE IN THE COOK ISLANDS, NIUE AND TOKELAU. IN THE

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*Richard
Wade
Moore*

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BILL THE TERM "NEW ZEALAND" IS DEFINED TO EXCLUDE THE COOK ISLANDS, NIUE AND TOKELAU IN ORDER TO MAKE IT CLEAR THAT PRESENCE IN THOSE COUNTRIES AT THE TIME THE BILL CAME INTO FORCE OR SUBSEQUENT ENTITLEMENT TO LIVE THERE PERMANENTLY WILL NOT RPT NOT ENTITLE A WESTERN SAMOAN TO CLAIM NEW ZEALAND CITIZENSHIP. Out of Scope
Out of Scope

Released under the
Official Information Act

58/311/2

*In power -
Long by; but
were!!* *They agree to us.
- An on some day.*

PROTOCOL TO THE TREATY OF FRIENDSHIP BETWEEN THE
GOVERNMENT OF NEW ZEALAND AND THE GOVERNMENT OF
WESTERN SAMOA

Copy
W.S.

The Government of New Zealand and the Government of
Western Samoa,

Reaffirming that their relations are founded upon
sovereign equality and continue to be governed by a spirit of
close friendship,

Recognising that the special relationship between New
Zealand and Western Samoa requires that issues affecting the
two countries and their citizens should be resolved on a
cooperative basis,

Having considered the circumstances under which
citizens of Western Samoa could appropriately acquire
citizenship of New Zealand,

Noting that, in accordance with international law
and practice, it is for each country to determine under its
own law who are its citizens,

Recognising that a country normally grants citizenship
only to those individuals having a close and effective link
with it,

Recognising further that the ties of history, friendship
and law between New Zealand and Western Samoa are such as to
give the citizens of Western Samoa a claim to special
treatment under the New Zealand law governing citizenship,

Have agreed as follows:

Article I

At the request of either, the two Governments shall consult on any issue relating to the operation of their respective laws governing citizenship and immigration.

Article II

1. The Government of New Zealand shall:

(a) grant to all citizens of Western Samoa in New Zealand on the date of entry into force of this Protocol the right to become New Zealand citizens immediately upon application;

(b) grant to those citizens of Western Samoa who travel to New Zealand after the entry into force of this Protocol and who, pursuant to the policy and practice implemented by New Zealand prior to 19 July 1982, would have been granted permanent residence status either on arrival in New Zealand or subsequently, the additional right to become New Zealand citizens immediately upon acquisition of permanent residence status.

2. For the purposes of this Article the term "New Zealand" shall not include The Cook Islands, Niue or Tokelau.

Article III

This Protocol shall be read with, and form an integral part of, the Treaty of Friendship between the ^{Government of New Zealand and the} Government of Western Samoa done at Apia on 1 August 1962.

Article 1V

This Protocol shall be subject to ratification .
It shall enter into force on the date of the exchange of
instruments of ratification.

IN WITNESS WHEREOF, the representative of the Government
of New Zealand and the representative of the Government
of Western Samoa, duly authorised for the purpose, have
signed this Agreement.

DONE At Apia this day of 1982
in four originals , two being in the English language,
and two in the Samoan language, the texts of both languages
being equally authentic.

For the Government of
New Zealand:

For the Government of
Western Samoa:



W: H

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3/14/1

→ 30.14.11

16 August 1982

The High Commissioner,
New Zealand High Commission,
APIA

VIDEOTAPE : TVNZ PROGRAMME : CLOSE-UP

We refer to your telegram No. 1097 of 2 August 1982 in which you asked for a copy of the Close-Up programme concerning the Privy Council's recent decision on Western Samoan entry to New Zealand.

2. It has taken us some time to obtain the tape but we enclose it now for permanent inclusion in your videotape library.

(Mattie Wall)
for Secretary of Foreign Affairs

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3 The requirements under S.8, which is the provision under which most other citizenship applications come, do not apply. Thus, good character, sufficient knowledge of the responsibilities and privileges attaching to New Zealand citizenship, sufficient knowledge of the English language etc. are irrelevant.

4 Although citizenship cannot be withdrawn on the grounds of a criminal conviction, it can be withdrawn on the grounds that the grant was procured by fraud, false representation, wilful concealment of relevant information, or mistake (see S.17 Citizenship Act 1977).

5 The Citizenship (Western Samoa) Act provides for citizenship to be granted to

(i) Western Samoans who were in New Zealand at the time the Act was passed, or

(ii) Western Samoans who hold residence permits.

Under the terms of the Immigration Act 1987, the granting of a residence permit is discretionary. Furthermore, any person holding a residence permit is subject to deportation under the provisions of Part IV of the Immigration Act if he or she is convicted of an offence. A Western Samoan who was entitled to apply for New Zealand citizenship under the Citizenship (Western Samoa) Act, being the holder of a residence permit, but who had not yet applied for citizenship, could therefore be deported if convicted of an offence. Because the grant of citizenship in these cases is, however, not discretionary (that is, it must be granted on application), the holder of a residence permit who has already applied for citizenship could not be subject to a deportation order.

6 [It should also be pointed out that the question on whether there is anything in the Immigration Act to prevent the holder of a residence permit applying for citizenship even after a deportation order has been made, but before it has been effected would seem to be open to interpretation. (Differing - informal - views have been given by Internal Affairs and Immigration on this.). It is open to argument that a residence permit is not deemed to be cancelled until the person has actually left the country.]

7 The background to what may seem to be a generous provision is as follows. The Protocol, and subsequently the 1982 Act, stemmed from a Privy Council decision in the same year that all Western Samoans born in Western Samoa between 1928 and 1949 were New Zealand citizens.

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