



LAW·COMMISSION
TE·AKA·MATUA·O·TE·TURE

Report of the

LAW COMMISSION
Te Aka Matua o te Ture

for the year ended 30 June 2001

*Presented to the House of Representatives under
section 17 of the Law Commission Act 1985 and
section 44A of the Public Finance Act 1989*

August 2001
Wellington, New Zealand

Report/Law Commission, Wellington, 2001

ISSN 1172-174X ISBN 1-877187-77-1

This report may be cited as: NZLC R75

Also published as Parliamentary Paper E 31

Presented to the House of Representatives pursuant to section 16 of
the Law Commission Act 1985

This report is also available on the Internet at the Commission's
website: <http://www.lawcom.govt.nz>

Contents

	<i>Page</i>
Letter of Transmittal	v
DIRECTORY	vii
PRESIDENT'S REPORT	1
THE COMMISSIONERS	4
Current Commissioners	4
Former Commissioners	6
THE YEAR UNDER REVIEW	8
Reports	8
Preliminary papers	14
Study papers	16
Advisory services to other State agencies and submissions on Bills	19
Corporate Services	19
FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2001	23
Statement of responsibility	23
Statement of accounting policies for the year ended 30 June 2001	24
Statement of financial performance for the year ended 30 June 2001	27
Statement of movements in equity for the year ended 30 June 2001	28
Statement of financial position as at 30 June 2001	29
Statement of cash flows for the year ended 30 June 2001	30
Notes to Financial Statements for the year ended 30 June 2001	33

STATEMENT OF SERVICE PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2001	37
Output class: policy advice	37
Quality	37
Quantity and timeliness	37
Costs	42
Performance Standards	42
REPORT OF THE AUDIT OFFICE TO THE READERS OF THE FINANCIAL STATEMENTS OF THE LAW COMMISSION FOR THE YEAR ENDED 30 JUNE 2001	45
APPENDICES	
A Members and staff of the Law Commission as at 30 June 2001	47
B Law Commission publications as at 30 June 2001	49

31 August 2001

Dear Ministers

I have the honour to submit the report of the Law Commission for the year ended 30 June 2001.

This report is prepared under section 17 of the Law Commission Act 1985 and section 44A of the Public Finance Act 1989.

Yours sincerely

J Bruce Robertson
President

The Hon Margaret Wilson
Minister Responsible for the
Law Commission
Parliament Buildings
Wellington

The Hon Phil Goff
Minister of Justice
Parliament Buildings
Wellington

The Law Commission: Te Aka Matua o te Ture Directory

THE LAW COMMISSION is an independent, publicly funded, central advisory body established by statute to undertake the systematic review, reform and development of the law of New Zealand. Its purpose is to help achieve law that is just, principled, and accessible, and that reflects the heritage and aspirations of the peoples of New Zealand.

In developing its proposals, the Commission recognises the Treaty of Waitangi as the founding document of New Zealand, and takes account of community and international experience.

The members of the Law Commission as at 30 June 2001, appointed under section 9 of the Law Commission Act 1985, are:

The Honourable Justice J Bruce Robertson – President
DF Dugdale

Paul Heath QC

Judge Patrick Keane

Professor Ngatata Love QSO JP

Vivienne Ullrich QC

ADDRESS DETAILS

The office of the Law Commission is located at:
Level 10, 89 The Terrace, Wellington

The postal address is:
PO Box 2590, Wellington, DX SP23534

Telephone: (04) 473 3453, Fax: (04) 471 0959

E-mail: com@lawcom.govt.nz

Information about the Law Commission and its work is available via the Internet from the Commission's website at:
<http://www.lawcom.govt.nz>.

FUNDING

The Law Commission is funded from money appropriated by Parliament through Vote:Justice.

MĀORI COMMITTEE

The Māori Committee to the Law Commission assists the Commission in identifying projects to advance te ao Māori, and helps the Commission in implementing te ao Māori in its work. The current members are:

Sir Graham Latimer (Chairman)

Rt Rev Bishop Manuhuia Bennett ONZ CMG

Hon Justice ET Durie

Professor Mason Durie

Judge Michael JA Brown CNZM

Te Atawhai Taiaroa

Whetumarama Weretā

Jackie Te Kani

President's report

HONOURABLE JUSTICE J BRUCE
ROBERTSON

THE PAST 12 MONTHS have seen substantial changes in personnel at the Law Commission but the fundamentals of our task remain unchanged and unchanging.

Behind the formal words of our statute the mission and function can be expressed succinctly. The Commission exists to assist in the process of ensuring that the law in New Zealand is as:

- simple;
- relevant; and
- accessible

as it reasonably can be.

The community in which we live, the political system under which we are governed and the dynamics of a global economy are constantly changing. The Commission is required to be responsive to changing expectations and demands but vigilant in ensuring the maintenance of fundamental rights and norms that must always be preserved.

There will inevitably be a tension between the agenda and policy of successive governments and the preservation and maintenance of fundamentally unchanging tenets. The Commission needs to be of the community and responsive to its needs but independent of any sector or group and able to advocate fearlessly proposals for reform following inquiry and research.

During the past year, as is detailed below, reports and study papers have been issued in a wide variety of areas.

As discussed in depth in the Annual Report 2000 when commenting on the Review of the Commission undertaken by the Rt Hon Sir Geoffrey Palmer, a major issue has been the implementation of our reports. This is an important facet of the relationship between the Law Commission and Executive Government. Commitments have now been made and we are optimistic that protocols can be established which ensure that the Commission's energy is directed in areas that are of concern and where a difference can be made.

This must always happen without compromising the statutory independence which is essential if the Commission is to have credibility and the confidence of the wider community.

Over its period of existence, successive Presidents and various Commissioners have brought an amazing range of skills, experience, vision and ability to the Law Commission. At this time we acknowledge in particular the commitment of Justice Baragwanath as President from 1996–2001, and the wisdom, experience and determination of both Judge Margaret Lee and Tim Brewer during their respective terms.

These Commissioners, whose terms concluded prior to or at 31 March 2001, made extraordinary efforts to bring to fruition, by the presentation and publication of reports or study papers, virtually all work in which they had been involved. The output of the Commission in the past five years has been immense. A major task now exists for the present Commissioners of ensuring that this material becomes a catalyst for change and is influential in reform that is undertaken.

We have a number of areas in which we are continuing to work on existing projects but a new raft of references have been received.

The largest in its outreach, volume and complexity is a consideration of the structure of the courts in New Zealand (apart from the Privy Council and the present Court of Appeal or any institutions in substitution therefor).

The terms of reference anticipate, and the determination of the Commission is, that there should be the widest possible consultation with all sectors and groups within society. Publicly created and administered courts and tribunals must be responsive to the needs of the entire community, sensitive to requirements and aspirations across the board, but always efficient and sensible in their operation. The judicial system must be a servant of the community by which the rights and responsibilities that have been created and developed over centuries are enforced and upheld with integrity, dignity, impartiality and objectivity.

The Courts reference will be a major collaborative enterprise in which the Commission will work closely with relevant government agencies and departments. It will necessarily involve collaboration with the judiciary and the legal profession but at its heart it must be responsive to the expectations, requirements and demands of ordinary New Zealanders. In this exercise we are particularly mindful of the need to assess and respond to the Māori perspective and the position of minority groups within our community.

We have other references involving powers of search, the appropriateness and operation of status hearings and sentence indications within criminal courts, the nature of the processes operating in Family Courts, the scope and operation of general discovery in civil litigation, and issues relating to the use and enjoyment of assets obtained as part of Treaty settlement processes.

It is inevitable that different people at the Commission will mean changes in emphasis and approach. The strong existing foundations will be built on and enhanced to ensure that the Commission meets its statutory function in ways that are effective. Being engaged with but not absorbed by the political, bureaucratic, academic, business and legal milieux is our challenge.

The output and influence of the Law Commission are products of not only the Commissioners for the time being, but the research and support staff, independent consultants and others with whom we are engaged in collaborative and consultative work.

In all of this we have been, and continue to be, very fortunate and well served.

The Commissioners

CURRENT COMMISSIONERS

Hon Justice J Bruce Robertson

JUSTICE ROBERTSON began a five-year term as President of the Law Commission on 1 May 2001. He was appointed a High Court Judge in 1987 sitting in Auckland. He has been a member of the Criminal Appeal Division of the New Zealand Court of Appeal since 1996 and has regularly presided in the Court of Appeal of Vanuatu. He continues with both of these involvements.

The Judge graduated BA, LLB from the University of Otago. As a Harkness Fellow of the Commonwealth Fund of New York he completed an LLM at the University of Virginia in the early 1970s. He has an Honorary Doctorate of Laws from Otago where he was both a part-time lecturer and a Council member for almost 20 years. For six years he was Pro-Chancellor.

He was a partner in a Dunedin law firm, is a former President of the Otago District Law Society, served on the Council of Legal Education, and was for 10 years President of the Legal Research Foundation. He has been a member of the Legislation Advisory Committee since its inception.

He is the consulting editor of *Adams on Criminal Law* and the New Zealand Law Society's *Introduction to Advocacy*.

DF Dugdale

DF Dugdale was appointed a Law Commissioner for a term of five years from 16 April 1997.

He graduated in Law at Auckland University and was formerly senior partner of Kensington Swan in Auckland. He has been President of the Auckland District Law Society, Vice-President of the New Zealand Law Society, and has served on both the Council of Legal Education and the Council of Law Reporting. He was a member of the Contracts and Commercial Law Reform Committee during

the 20 years of its existence and has specialised in commercial and property litigation. His publications in the year under review include the *Laws of New Zealand* title “Sale of Land”.

Paul Heath QC

Paul Heath was appointed as a part-time Law Commissioner on 10 May 1999 for a term of three years.

He graduated LLB from Auckland University in 1978 and since 1996 has been FCI Arb (UK) and FAMINZ (Arb). He practises as a Queen’s Counsel in Hamilton specialising in commercial litigation (especially insolvency-related issues), arbitration and mediation. Paul Heath is a former partner of Stace Hammond Grace & Partners in Hamilton and a past Convenor of the New Zealand Law Society’s Commercial and Business Law Committee. He has also been a member of the Joint Insolvency Committee, which was established by the New Zealand Law Society and the Institute of Chartered Accountants of New Zealand to consider insolvency law reform.

Judge Patrick Keane

Judge Keane has been appointed as a Law Commissioner for a term of three years from 1 May 2001. He graduated BA (1968) and LLB (Hons) (1970) from Victoria University of Wellington. In 1987 he was appointed a District Court Judge and a Taxation Review Authority. He has held a Family Court warrant and currently holds a trial warrant. He has been a partner in the law firms Izard Weston & Co and Watts & Patterson (and, as it became, Rudd Watts & Stone). He has also been a Crown Counsel.

Dr Ngatata Love QSO JP

Dr Love has been appointed as a part-time Law Commissioner for a term of three years from 1 May 2001.

He studied at Victoria University of Wellington and graduated BCom (1969), BCA (Hons) (1969) and PhD (1978). He has recently retired as the Chief Executive of Te Puni Kōkiri having served in that position since 1995. From 1973 to 1995, Dr Love held a number of academic posts at Massey University and was appointed as a professor in 1981. He served as Dean of the Faculty of Business Studies between 1986 and 1995. Dr Love will provide the Law Commission with specialist knowledge on Māori issues and policy practices in the public sector.

Vivienne Ullrich QC

Vivienne Ullrich was appointed as a part-time Law Commissioner in May 2001 for a term of three years. She practises as a Queen's Counsel in Wellington, specialising in family law.

After her admission to the bar she was employed by Wallace McLean Bawden & Partners in Auckland and after spending some years as a member of the Law Faculties in Auckland and Victoria Universities she returned to practice as a barrister sole in 1990. She was a member of the first executive committee of the Family Law Section of the New Zealand Law Society and is an author of *Trapski's Family Law* on guardianship and matrimonial property. She has also held a warrant as a member of the Removal Review Authority and the Residence Appeal Authority.

FORMER COMMISSIONERS

Hon Justice David Baragwanath

Justice Baragwanath completed a four-and-a-half-year term as President on 31 March 2001.

He graduated from Auckland University with an LLB in 1964 and as a Rhodes Scholar at Balliol College Oxford was awarded a BCL (First Class) in 1966. He undertook research at the University of Virginia on a Fulbright Travel Award in 1981.

Justice Baragwanath was a partner in Meredith Connell & Co the Crown Solicitors in Auckland from 1966 until he went to the Separate Bar in 1977. He was made Silk in 1983 and appointed a High Court Judge in 1995. Justice Baragwanath has for some years been a member of the Aviation Study Group based in Linacre College Oxford and has now returned as Puisine Judge in the High Court at Auckland.

Judge Margaret Lee

Judge Margaret Lee completed a five-year term as a Law Commissioner on 31 March 2001. Judge Lee was born in China. She had a varied working life before beginning her legal career and held positions in New Zealand and with international agencies overseas involving staff training, education and research.

She was admitted to the Bar in 1980 and became a Partner in Tripe, Matthews & Feist, a Wellington Law firm, in 1982 and a District Court Judge in 1987. She has conducted jury trials since 1992.

Tim Brewer ED

Tim Brewer was a part-time Law Commissioner from 30 September 1997 until 31 March 2001 although he has continued as a consultant to complete some continuing work. Tim Brewer is a fifth generation Taranakian and has practiced in New Plymouth as a lawyer since November 1980. He has been the Crown Solicitor at New Plymouth since 1988.

Tim Brewer holds a First Class Honours degree in Law from Victoria University of Wellington, has been a member of the New Zealand Law Society Criminal Law Committee and of the Courts Martial Panel of Advocates. He serves in the New Zealand Army in the rank of Brigadier (Territorial Force) and was awarded the Territorial Force Decoration (ED) in 1994.

The year under review

REPORTS

THE FOLLOWING REPORTS were published this year.

Some Criminal Defences with Particular Reference to Battered Defendants (NZLC R73, May 2001)

This report was completed and printed in May 2001 and tabled in Parliament in July 2001.

The Commission considers that the theory of “battered woman syndrome” does not adequately or comprehensively describe the nature of battering relationships or the effects of battering and recommends that the term “battered woman syndrome” not be used.

Instead, the Commission recommends that reference be made to expert evidence on the nature and dynamics of battering relationships and the effects of battering, and suggests ways in which such evidence could assist the fact-finder in cases involving battered defendants.

The report looks at a number of proposed defences specifically tailored to meet the situation of battered defendants but concludes that none of them should be adopted.

Changes to section 48 of the Crimes Act 1961 (which deals with self-defence) are recommended to better recognise the exigencies of threatened violence in the context of battering relationships.

The report examines the partial defences of provocation, diminished responsibility and excessive self-defence and recommends their replacement by a sentencing discretion for murder. The Commission proposes that judges should have a limited discretion to impose a sentence of less than life imprisonment for murder in exceptional cases.

Finally, the Commission recommends the replacement of section 24 of the Crimes Act 1961 (which deals with the defence of compulsion) by a new provision on duress by threats and codification of the defence of duress of circumstances.

Subsidising Litigation (NZLC R72, May 2001)

Subsidising Litigation (NZLC R72) was released on 22 May 2001. In this report, the Law Commission considers the laws preventing officious intermeddling in the litigation of others. It describes the torts of maintenance and champerty, suggests a liberalisation of the existing law as to contingency fee charging by lawyers, and discusses solutions to the financing of claims by liquidators and assignees in bankruptcy.

Misuse of Enduring Powers of Attorney (NZLC R71, April 2001)

In May 2000, the Law Commission published a discussion paper *Misuse of Enduring Powers of Attorney* (NZLC PP40). The paper discussed the absence of adequate safeguards for the protection of donors of enduring powers of attorney under the provisions of Part IX of the Protection of Personal Property Rights Act 1988. This statute, since it came into force on 1 October 1988, has provided the legal machinery to allow decisions to be made on behalf of those unable to manage their own financial affairs or properly look after themselves.

This report considers the substantial number of submissions made to the Law Commission in response to PP40 and answers the questions formulated in that discussion paper.

Acquittal Following Perversion of the Course of Justice (NZLC R70, March 2001)

The Law Commission delivered to the Minister of Justice its report *Acquittal Following Perversion of the Course of Justice* in March 2001. This report responds to the request by the former Minister to consider the case of Kevin Moore. In September 2000, the Commission issued a discussion paper *Acquittal Following Perversion of the Course of Justice: A Response to R v Moore* (NZLC PP42), in which the Commission set out the issues and options. The Commission received a number of helpful responses, which have contributed to the advice conveyed in this report.

The Commission confirmed the fundamental importance of the rule against double jeopardy; but for the reasons contained in the report, the Commission recommends a limited and principled exception to it in cases where an accused has secured apparently unmerited acquittal in the most serious classes of case, by perjury or other conduct designed to defeat the course of justice.

Juries in Criminal Trials (NZLC R69, February 2001)

In its final report *Juries in Criminal Trials* the Commission reaffirms the importance of the jury system as an essential and desirable feature of the criminal justice system. However, it also recommends a number of major changes.

Juries should be able to reach their verdict by a majority of 11:1, a move which will remove the influence of the small minority of irrational jurors and may decrease the rate of hung juries.

Currently juries must be used in trials for the most serious crimes (such as murder and rape). The Commission recommends that the accused should be able to apply for trial by judge alone in such cases, but this would only be granted if, because of the subject matter of the case or the identity of the accused, a fair trial by jury is not possible.

The Commission also recommends that in cases which will last for six weeks or more, which is too long to expect a jury to sit, the prosecution should be able to apply for a trial by judge alone. This recommendation is aimed at complex fraud trials, and the prosecution would not be able to do this in cases of serious violent crimes.

The high number of people who avoid jury service, particularly skilled and educated people, is currently a cause of concern. The Commission recommends that this should be addressed from two angles. First, it should be made easier to serve by allowing jurors to defer their service to a more convenient time, making it an offence for employers to prejudice an employee's job because that employee is or might be on a jury, and, in some circumstances, allowing reimbursement of actual financial loss in excess of the normal juror fee. Secondly, the penalty for failing to answer the jury summons without proper excuse should be raised from the current fine of \$300 to a maximum penalty of \$1000 and seven days imprisonment

Electronic Commerce Part Three: Remaining Issues (NZLC R68, December 2000)

This is the Law Commission's third and final report on electronic commerce, *Electronic Commerce Part Three: Remaining Issues* (NZLC R68). The purpose of the latest report is threefold: it addresses the issues on which submissions were sought in *Electronic Commerce Part Two*, it provides an update on developments at international forums regarding both criminal and civil laws relating to e-commerce, and it comments on the Electronic Transactions Bill recently introduced

into Parliament. While the report explains the policy differences between the Commission's recommendations in its earlier reports and the provisions of the Electronic Transactions Bill, it does not express any disagreement with the resulting legislation.

Electronic Commerce Part Three also addresses privacy issues raised by the caching of electronic information, transportation documents, civil remedies for computer misuse, and recommendations for the review of the Code of Banking Practice to be conducted in 2001.

Tax and Privilege: Legal Professional Privilege and the Commissioner of Inland Revenue's Powers to Obtain Information (NZLC R67, October 2000)

On 26 October 2000, the Law Commission released its report *Tax and Privilege: Legal Professional Privilege and the Commissioner of Inland Revenue's Powers to Obtain Information*.

In that report, a majority of the Law Commission endorsed in a modified form a proposal by the Wine-Box Inquiry to restrict the privilege that protects the privacy of communications between taxpayers and their lawyers. The Commission recommends that privilege apply only to communications made after a tax return has been furnished. Communications prior to that stage should be part of the information to which the Commissioner of Inland Revenue has access under the exercise of his normal information-gathering powers.

The Commission believes that the law change proposed will assist the Commissioner of Inland Revenue in performing his or her legal duty to collect the highest net revenue that is practicable within the law, by ensuring the Commissioner has access to all relevant information. The majority of Commissioners are of the view that legal privilege in a non-litigious context is not to be regarded as so sacrosanct that it cannot, in appropriate cases, be set aside in the public interest.

This report includes a statement of minority view by Commissioner Paul Heath QC. He considers that there are other means of ensuring that the privilege is not abused by taxpayers, and that public dissatisfaction with the exercise by the Inland Revenue Department of its statutory powers makes it inappropriate, at least for the meantime, to restrict legal privilege in this context.

Criminal Prosecution (NZLC R66, October 2000)

The Law Commission published a report *Criminal Prosecution* (NZLC R66) in October 2000. This report concludes that the criminal prosecution system is generally in good shape and not in need of

radical changes, being for the most part effective and respectful of human rights. It does, however, note concerns expressed by Māori and offers certain proposals for meeting those concerns. The report recommends a number of ways in which existing structures can be modified and made more efficient.

Issues which the report addresses include:

- criminal disclosure and preliminary hearings. The Commission repeats its recommendation for a statute comprehensively covering criminal disclosure. This recommendation has been made before and received considerable support, but as yet legislation has not been passed;
- the rejection of the suggestion that New Zealand needs a Crown Prosecution Service, of the type that exists in England, instead of our current system of Crown Solicitors in private practice;
- the role of Crown Solicitors in the prosecution system;
- the need for increased oversight of the prosecution process by the Crown Law Office, particularly in light of the increasing role of government prosecuting agencies;
- the proper test to be used in decisions to prosecute;
- charge negotiation and sentence indication;
- the proper scope of section 347 Crimes Act 1961 (power to discharge accused) and whether a similar power should exist in the summary jurisdiction; and
- the role of private prosecutions and proposals to ensure adequate safeguards against vexatious and unjustified private prosecutions.

Adoption and Its Alternatives: A Different Approach and a New Framework (NZLC R65, September 2000)

This report was released on 29 September 2000.

Adoption law has not changed substantially since 1955. In that time society has changed greatly, and the law as it stands does not take into account social changes, such as the desire for open adoption, and new technologies, such as assisted human reproductive technologies and surrogacy. Adoption law is also currently out of step with other family-related legislation.

In its report, the Commission makes recommendations on many aspects of Adoption. The Commission also recommends a comprehensive Care of Children Act which will state the responsibilities and rights of parenthood and will incorporate provisions from the Guardianship Act and the Children, Young

Persons, and Their Families Act. Adoption would then be regarded as one of a number of options for the permanent care of a child.

As well as making recommendations, the Commission raises issues for further consideration such as the issues surrounding assisted reproductive technologies and surrogacy. The Government Administration Select Committee is considering the Commission's report and has received public submissions.

Defaming Politicians: A Response to *Lange v Atkinson* (NZLC R64, August 2000)

In this report, the Commission discusses the Court of Appeal's second *Lange* decision following the reference backed by the Privy Council. The Commission confirms its recommendation that the only satisfactory solution is a short amendment to the Defamation Act, imposing, as the price of the privilege the Court of Appeal created in its first *Lange* decision, a simple duty of reasonable care.

Coroners (NZLC R62, July 2000)

In its report *Coroners*, the Commission has identified a number of problems with the coronial system. These include:

- inadequate procedures for the appointment of coroners;
- the lack of uniformity of coronial practices throughout New Zealand;
- a need for training programmes for coroners; and
- the perception that in the coronial system there is little or no regard taken of the cultural values and beliefs of communities, particularly Māori cultural values and beliefs.

A key recommendation of the report is the appointment of a Chief Coroner, suitably resourced, to devise and maintain the necessary support systems for coroners, to oversee coroners, and to monitor the implementation of coronial recommendations.

The proposed reforms work as a package to address:

- the role and status of coroners;
- the practices, systems and services required to improve the operation of the coronial system;
- amendments to the Coroners Act 1988; and
- the concerns of Māori and other cultural and religious groups, as well as many individual families, that current coronial practices are insensitive, both in their treatment of the deceased and with regard to the removal and retention of body parts.

Tidying the Limitation Act (NZLC R61, July 2000)

On 17 July 2000, the Law Commission released its report *Tidying the Limitation Act*, which recommends changes to the time limits within which civil claims must be brought.

There are a number of areas where the Limitation Act (now more than 50 years old) is causing problems. One problem is where time runs out before a potential claimant is even aware that there is a problem. Another problem is where the psychological damage caused by sexual abuse is so profound that the victim is disabled from summoning the resolution to start proceedings before time has expired. There are some classes of claims, such as those for relief against mistake, where the six-year period runs from discovery of the mistake, which is much too open-ended to be fair to potential defendants.

In its recommendations, the Law Commission aims to strike a balance between what is fair to intending plaintiffs and what is fair to intended defendants.

PRELIMINARY PAPERS

The following preliminary papers were published during the year. All of these papers resulted in final reports after submissions and consultation were taken into account.

Subsidising Litigation (NZLC PP43, December 2000)

In New Zealand today, the rich can afford to engage in civil litigation. Legal aid may be available to the very poor. But between these two extremes there is a very broad band of people who cannot enforce their legal rights because to do so would be too expensive. This is one reason why members of the public are prepared to resort to the naming and shaming techniques available to the media and exemplified by the television programme *Fair Go*. The Disputes Tribunals, which dispose of 30,000 cases a year, were meant to help with this problem, and do, but they suit only the assertive and articulate and their jurisdiction is only up to \$7,500 or \$12,000 if both parties agree.

One solution to this problem that has been proposed is to allow lawyers to charge for their litigation services on a contingency basis. Should the law be changed to permit New Zealand lawyers to handle cases on terms that they will be paid only if the case succeeds, and if

the case does succeed, be entitled to a fee that is higher than normal to make up for the risk the lawyer has run of not being paid at all? *Subsiding Litigation* discusses this and connected questions.

Acquittal Following Perversion of the Course of Justice: A Response to *R v Moore* (NZLC PP42, September 2000)

On 26 September, the Law Commission released a discussion paper on how the law should respond to a defendant who has secured acquittal, by perjury or similar means, for a crime that he or she very probably committed.

The Law Commission's discussion paper outlines five options:

- maintain the status quo;
- increase the maximum sentence for perjury and related crimes;
- create a new crime of aggravated perjury/conspiracy to pervert the course of justice;
- abandon the double jeopardy rule; and
- create a principled exception to that rule.

The Commission regards the fourth option as inconceivable and the second and third options as difficult.

Battered Defendants (NZLC PP41, August 2000)

The Commission released its discussion paper *Battered Defendants: Victims of Domestic Violence Who Offend* on 14 August 2000.

In recent years, awareness of the extent of domestic violence has grown and with it, concern about the way the law applies to victims of domestic violence who commit offences. It has been argued that the legal defences do not properly take account of the circumstances that lead such defendants to offend. In particular, it is argued that a number of defences are based on male offending patterns and apply inequitably to battered defendants, who in the main are women. In response to this concern, the Law Commission undertook the battered defendants project. The terms of reference, approved by the Minister of Justice, were to:

- examine how the existing New Zealand law applies to those who commit criminal acts in circumstances where they are victims of domestic violence, in particular, the defences of self-defence, provocation, duress and necessity;
- consider developments and proposals in other jurisdictions, in particular, the defences of self preservation, diminished

- responsibility and judicial discretion in sentencing for murder; and
- make proposals for reform, if appropriate.

STUDY PAPERS

The following study papers were released this year.

Insolvency Law Reform: Promoting Trust and Confidence (NZLC SP11, May 2001)

The Law Commission released its advisory report to the Ministry of Economic Development to assist it in its current review of insolvency laws as a study paper. This paper is intended to be used to facilitate consultation that the Ministry is carrying out.

The topics considered in the paper are:

- the role of the State in insolvency law;
- whether additional provision should be made to deal with business rehabilitation or reorganisation;
- whether statutory management under the Corporations (Investigation and Management) Act 1989 should be retained in its existing or some modified form; and
- whether it is desirable for New Zealand to adopt a generic statute dealing with all insolvency law issues.

In considering these issues, we have paid particular regard to the need to ensure that any insolvency regime is appropriate for New Zealand conditions.

Ultimately, the theme that we have found to underlie these four topics is the need to instil trust and confidence in an insolvency law system so that insolvency law can act as a cornerstone of both fiscal and social policy decisions.

Mandatory Orders Against the Crown and Tidying Judicial Review (NZLC SP10, March 2001)

This study paper records options for reform of the procedures for judicial review of administrative action. It contains the argument by the former President of the Law Commission in favour of reform.

This study paper raises two broad issues for discussion. The first concerns an aspect of the status of the citizen in relation to the State in litigation: whether mandatory orders should become available against the Crown. The second issue relates to the procedures for

judicial review of administrative action. These issues overlap when mandatory orders are sought on judicial review.

Māori Custom and Values in New Zealand Law (NZLC SP9, March 2001)

The Law Commission's study paper, *Māori Custom and Values in New Zealand Law* NZLC SP9, has two main purposes. One is to examine how Māori custom and values impact on our current law. The second is to consider ideas for future law reform projects in the Law Commission to give effect to Māori values in the laws of New Zealand.

What underlies the focus of the paper is the importance of developing a legal system that reflects New Zealand's cultural heritage and of which all New Zealanders, not just the dominant majority, feel a part.

Māori custom law, also referred to as *tikanga* Māori, is extremely dynamic and should not be treated as frozen in time. The paper provides some explanations of a number of values that underpin the totality of *tikanga*. In exploring Māori values, the paper stresses that a focus on heritage and tradition will not yield a complete picture – a forward-looking dimension is also important. In the words of Professor Mason Durie:

Māori values are not simply about celebrating the past but have always had a rationale that is premised on the future – survival.

The paper explores colonial and evolving judicial attitudes towards Māori custom law as well as modern treatment of *tikanga* by the courts and the legislature. It discusses the evolving role of the Māori Land Court and canvasses Treaty law and issues arising from references to the Treaty or its principles in legislation. Finally, the paper explores some options for future work in the Law Commission in co-operation with others, to move New Zealand closer to a system of law that is shaped by the philosophies of both English law and *tikanga* Māori.

Determining Representation Rights under Te Ture Whenua Māori Act 1993: An Advisory Report for Te Puni Kōkiri (NZLC SP8, March 2001)

The Commission released *Determining Representation Rights under Te Ture Whenua Māori Act 1993: An Advisory Report for Te Puni Kōkiri* (NZLC SP8, March 2001) as a companion paper to *Māori Custom*

and Values in New Zealand Law (NZLC SP9). The companion paper considers problems and issues relating to the operation of section 30 of Te Ture Whenua Māori Act 1993 (power of Māori Land Court to give advice or make determination as to representatives of class or group of Māori). It is referred to in chapter 4 of *Māori Custom and Values in New Zealand Law* as part of a discussion of the evolving role of the Māori Land Court.

Simplification of Criminal Procedure Legislation (NZLC SP7, January 2001)

This paper was presented to the Ministry of Justice in October 2000 as an advisory report in response to a request to assist the Ministry to simplify the statutory provisions governing the laying of criminal charges.

The Commission proposes a new Criminal Proceedings Act, which would replace the various criminal procedure provisions to be found currently in the Summary Proceedings Act 1957, District Courts Act 1947 and Crimes Act 1961. Much of the current confusion in determining questions of criminal procedure and jurisdiction comes from having to cross-refer to two or more of these statutes. The introduction of one statute consolidating the relevant provisions should simplify these procedures.

The most significant reform proposed by the Commission is discontinuing the classification of offences as either “summary” or “indictable”. Instead, the Commission proposes four broad categories of offences: those punishable by a maximum of three months imprisonment, those punishable by more than three months but (in general) less than 14 years imprisonment, “middle band” offences, and those offences that can only be heard in the High Court.

To Bind their Kings in Chains (NZLC SP6, December 2000)

When it passed a new Interpretation Act in 1999, Parliament was undecided on two matters. The Act contains an unusual provision requiring the Ministry of Justice to report on these two matters by 30 June 2001, and in preparing its report the Ministry must take into account advice from the Law Commission. The Law Commission published its advisory report *To Bind their Kings in Chains* (NZLC SP6).

The first matter to be reported on is whether Acts of Parliament should continue to bind the Crown only if they expressly say so. The alternative suggestion is that the presumption should be reversed

so that an Act will bind the Crown unless it says that it does not. The Law Commission explains why such a change would not be a good idea. The second matter is whether the Crown should ever be criminally liable. The Law Commission points out the difficulties.

It is possible to impose punishments using the machinery of civil proceedings. The Commerce Act contains well-known examples. This seems a neater approach than the counter-intuitive technique of trying to overturn the well-established constitutional axiom that the role of the Crown in relation to the criminal law is that of enforcer.

International Trade Conventions (NZLC SP5, November 2000)

This study paper examines various international trade conventions and recommends whether the conventions should be adopted as part of New Zealand law. The study paper discusses a number of conventions affecting various areas from international payment systems to liability for goods in international transit. In respect of each convention, the current situation at New Zealand law is discussed, as well as the likely impact on New Zealand traders if the convention were adopted. The Commission recommends that New Zealand consider adopting the Hague Conventions on the taking of evidence abroad and on the service abroad of certain legal documents, to improve these procedures for New Zealand parties engaged in cross-border litigation. Copies of these conventions are included in the study paper as appendices.

ADVISORY SERVICES TO OTHER STATE AGENCIES AND SUBMISSIONS ON BILLS

For details please refer to pages 40–42.

CORPORATE SERVICES

Library

The 2000/2001 financial year has again been busy for Library staff. Apart from providing Law Commission staff members and Commissioners with an efficient information service, the Library undertook the following projects.

The Library moved to a maintenance programme for purchasing upgrades to Inmagic DB/Textworks, the software it uses to run its in-house databases. Development work was organised to enhance

the Interloans database and build a Suppliers database. Development work on the Interloans database has enabled the Library to track the movements of materials borrowed or lent and the costs of Interloans with greater efficiency.

The Library commenced a Law Reform project. This project consists of checking law reform catalogue records, identifying and disposing of duplicate law reform materials, reorganising the way law reform materials have been shelved, and checking our exchange agreements with other law reform bodies. As at 30 June 2001 the Library has completed about half of this project.

Library training and induction materials and procedures were revised and updated. With the recent changes in Commissioners and researchers, this project was timely.

Library staff members continued to participate in a number of external and internal committees. The external committees included the Justice Sector Information Management Sub Working Group, the New Zealand Law Librarians Group Conference 2002 Committee, and the Special Libraries and Information Services (a special interest group of the Library and Information Association of New Zealand Aotearoa. The internal committees included the Library Committee and the Net (Internet/Intranet) Committee. The Library Manager attended an Intranet Content Management Conference in Auckland on 30–31 May 2001.

Information Technology

The significant event during this financial year was the preparation and signing of contracts for the replacement of the computer system. After careful evaluation the Commission decided to purchase Compaq computers and upgrade the operating system to windows 2000 as well as upgrade other software. The new computer system was rolled out on 9 July 2001. This system is expected to meet the needs of the Commission for the next three years.

Others

Staff members attended various training programmes. The Corporate Services staff continued to provide excellent service to researchers and

Commissioners, supporting the law reform activities. The Commission is grateful to them for their dedication and commitment.

Finance

All expenses were within budget. In view of the replacement of the computer system in July 2001, the remaining book values of the hardware and relevant software were written off to expenditure.

Furniture and fittings and office equipment were valued for the first time as at 30 June 2001.

Commissioners and staff as at 30 June 2001



From left to right, standing: Barbara McPhee, Andrew Wong She, Donald Dugdale, Brenda Speak, Bala Benjamin, Jacqueline Kitchen, Marcus McMillan, Marilyn Cameron, Michael Josling, Barbara Sutton, Judge Patrick Keane, Amelia Bardsley, Colleen Gurney, Anthea Miller, Louise Symons, Anne Tucker.

From left to right, seated: Professor Ngatata Love QSO, Vivienne Ullrich QC, Hon Justice Bruce Robertson, Helen Barrett.

Absent: Helen Colebrook, Gloria Hakiwai, Paul Heath QC, Judith Porter, David Thompson.

Changes in staff

During the year the following staff members left the Commission:

- Lucy McGrath
- Meika Foster
- Karen Belt

During the year the following staff members joined the Commission:

- Marcus McMillan
 - David Thompson
 - Amelia Bardsley
-

Financial statements
for the year ended
30 June 2001

STATEMENT OF RESPONSIBILITY

WE ACKNOWLEDGE responsibility for the preparation of these financial statements and for the judgments used herein.

We acknowledge responsibility for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of the Commission's financial reporting.

In our opinion these annual financial statements fairly reflect the financial position and operations of the Law Commission for the year ended 30 June 2001.

Hon Justice Robertson
President

B Benjamin
Executive Manager

STATEMENT OF ACCOUNTING POLICIES FOR THE YEAR ENDED 30 JUNE 2001

Reporting entity

The Law Commission is a Crown entity established by the Law Commission Act 1985.

The Financial Statements have been prepared in accordance with section 17 of the Law Commission Act.

Measurement base

The general accounting principles recognised as appropriate for the measurement and reporting of results and financial position on a historical basis, modified by the revaluation of library collections, furniture and fittings, and office equipment, have been followed.

Accounting policies

The following accounting policies which materially affect the measurement of results and financial position have been applied:

1 Goods and Services Tax (GST)

The Financial Statements have been prepared exclusive of GST with the exception of receivables and payables, which are stated with GST included.

2 Fixed assets

All fixed assets are initially recorded at cost. Library collections are valued every three years. Furniture and fittings and office equipment were revalued for the first time as at 30 June 2001. Changes in revaluation are charged to the Asset Revaluation Reserve account. When this results in a debit balance in the reserve account, the balance is expensed in the Statement of Financial Performance.

3 Depreciation

Depreciation is provided on a straight-line basis, which will write off the cost (or valuation) of the assets over their useful lives.

The useful lives and associated rates of depreciation for major classes of assets have been estimated as follows.

	Estimated useful life (years)	Rate of depreciation (%)
Computer equipment	5	20
Furniture and fittings	5	20
Office equipment	5	20
Computer software	5	20
Library collections	5	20

4 *Investments*

Investments are stated at the lower of cost and net realisable value.

5 *Leases*

Operating lease payments, where the risks and benefits of ownership are effectively retained by the lessor, are charged as expenses in the period in which they are incurred.

6 *Statement of cash flows*

Cash means cash balances on hand, held in bank accounts, demand deposits and other highly liquid investments, in which the Commission invests as part of its day-to-day cash management.

Operating activities include cash received from all income sources and the cash payments made for the supply of goods and services.

Investing activities are those activities relating to the acquisition and disposal of non-current assets.

Financial activities comprise the change in equity of the Commission.

7 *Financial instruments*

The Law Commission is a party to financial instruments as part of its normal operations. Those financial instruments include bank accounts, investments, debtors and creditors all of which are recognised in the Statement of Financial Position. Revenue and expenses in relation to financial instruments are recognised in the Statement of Financial Performance.

8 *Income tax*

The Law Commission is exempt from income tax.

9 *Receivables*

Accounts receivable are stated at their estimated realisable value after providing for doubtful and uncollectable debts.

10 *Employee entitlements*

Provision is made in respect of the Commission's liability for annual leave. Annual leave has been calculated on an actual entitlement basis at current rates of pay.

11 *Change in accounting policies*

There have been no changes in accounting policies during the year.

STATEMENT OF FINANCIAL PERFORMANCE
FOR THE YEAR ENDED 30 JUNE 2001

	2001 Actual \$	2000 Actual \$	2001 Budget \$
REVENUE			
Government grant	7	2,727,186	2,988,980
Interest		102,068	90,826
Sale of publications		24,975	33,136
Contribution from Ministry of Economic Development for Electronic Commerce project		4,380	6,500
Surplus on sale of fixed assets		18	1,144
Total revenue		2,858,627	3,120,586
EXPENDITURE			
Personnel costs		1,753,869	1,830,629
Project costs		308,416	290,355
Library costs		44,897	42,564
Administration costs	1	597,026	589,869
Depreciation		289,981	272,596
Fixed assets written off		42,128	0
Debit balance in Asset Revaluation Reserve account written off		0	19,387
Total expenditure		3,036,317	3,045,400
Net surplus (deficit)		(177,690)	(480,319)

The accompanying accounting policies and notes form part of these Financial Statements.

STATEMENT OF MOVEMENTS IN EQUITY
FOR THE YEAR ENDED 30 JUNE 2001

	2001 Actual \$	2000 Actual \$	2001 Budget \$
Equity at the beginning of the year	1,843,857	1,785,831	1,843,857
Surplus and revaluations			
Net surplus (deficit) for the year	(177,690)	75,186	(480,319)
Surplus on revaluation of furniture and fittings	150,049	0	0
Surplus on revaluation of office equipment	8,670	0	0
Deficit on revaluation of Library collections	0	(17,160)	0
Total recognised revenues and expenses for the year	<u>(18,971)</u>	<u>58,026</u>	<u>(480,319)</u>
Equity at the end of the year	<u>1,824,886</u>	<u>1,843,857</u>	<u>1,363,538</u>

The accompanying accounting policies and notes form part of these Financial Statements.

STATEMENT OF FINANCIAL POSITION AS
AT 30 JUNE 2001

	Note	2001 Actual \$	2000 Actual \$	2001 Budget \$
EQUITY				
Accumulated funds		1,666,167	1,843,857	1,363,538
Revaluation reserve – furniture and fittings		150,049	0	0
Revaluation reserve – office equipment		8,670	0	0
Total Crown equity		<u>1,824,886</u>	<u>1,843,857</u>	<u>1,363,538</u>
Represented by:				
CURRENT ASSETS				
Cash and bank balances		3,590	7,490	1,000
Bank – call deposit – BNZ		267,000	112,000	44,018
Short-term investments – BNZ		1,150,000	875,000	400,000
Short-term investments – National Bank		0	600,000	550,000
Receivables and prepayments	2	40,425	34,746	17,000
Total current assets		<u>1,461,015</u>	<u>1,629,236</u>	<u>1,012,018</u>
NON-CURRENT ASSETS				
Fixed assets	3	581,431	526,530	426,520
Total non-current assets		<u>581,431</u>	<u>526,530</u>	<u>426,520</u>
Total assets		<u>2,042,446</u>	<u>2,155,766</u>	<u>1,438,538</u>
CURRENT LIABILITIES				
Payables and accruals	4	217,560	311,909	75,000
Total current liabilities		<u>217,560</u>	<u>311,909</u>	<u>75,000</u>
Total liabilities		<u>217,560</u>	<u>311,909</u>	<u>75,000</u>
NET ASSETS		<u>1,824,886</u>	<u>1,843,857</u>	<u>1,363,538</u>

Hon Justice Robertson
President

B Benjamin
Executive Manager

The accompanying accounting policies and notes form part of these Financial Statements.

STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2001

	2001 Actual \$	2000 Actual \$	2001 Budget \$
CASH FLOW FROM OPERATING ACTIVITIES			
Cash was provided from:			
Government grant	2,727,186	2,864,170	2,975,111
Interest	102,384	96,983	32,600
Customers	18,981	59,607	25,543
Contribution from Ministry of Economic Development for the Electronic Commerce Project	4,380	6,500	0
	2,852,931	3,027,260	3,033,254
Cash was applied to:			
Payments to suppliers and employees	(2,798,558)	(2,550,098)	(3,442,736)
	(2,798,558)	(2,550,098)	(3,442,736)
Net cash inflow (outflow) from operating activities	54,373	477,162	(409,482)
CASH FLOW FROM INVESTING ACTIVITIES			
Cash was provided from:			
Sale of fixed assets	18	1,144	0
	18	1,144	0
Cash was applied to:			
Purchase of fixed assets	(228,291)	(197,267)	(189,990)
	(228,291)	(197,267)	(189,990)
Net cash inflow (outflow) from investing activities	(228,273)	(196,123)	(189,990)
NET INCREASE (DECREASE) IN CASH HELD			
	(173,900)	281,039	(599,472)
Plus opening cash balance:			
BNZ – current account	7,490	451	7,490
BNZ – call account	112,000	103,000	112,000
BNZ – short-term deposits	875,000	860,000	875,000
National Bank – short-term deposits	600,000	350,000	600,000
	1,594,490	1,313,451	1,594,490

Statement of cash flows for the year ended 30 June 2001 cont'd

	2001 Actual \$	2000 Actual \$	2001 Budget \$
CLOSING CASH BALANCE	1,420,590	1,594,490	995,018
Made up of:			
BNZ – current account	3,590	7,490	1,000
BNZ – call account	267,000	112,000	44,018
BNZ – short-term deposits	1,150,000	875,000	400,000
National Bank – short-term deposits	0	600,000	550,000
	<u>1,420,590</u>	<u>1,594,490</u>	<u>995,018</u>

The accompanying accounting policies and notes form part of these Financial Statements.

STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2001

RECONCILIATION OF NET SURPLUS TO NET CASH INFLOW FROM OPERATING ACTIVITIES

	2001	2000	2001
	Actual	Actual	Budget
	\$	\$	\$
Reported Surplus (Deficit)	(177,690)	75,186	(480,319)
Add (less) items not involving cash flows:			
Depreciation	289,981	272,596	290,000
Fixed assets written off	42,128	0	0
Debit balance in Asset Revaluation Reserve account written-off	0	19,387	0
Add (less) movements in working capital:			
Increase in receivable and prepayments	(5,679)	32,699	17,746
Decrease in payables and accruals	(94,349)	78,438	(236,909)
Add (less) proceeds of fixed assets sale shown under investing activities	(18)	(1,144)	0
Net cash inflow (outflow) from operating activities	<u>54,373</u>	<u>477,162</u>	<u>(409,482)</u>

The accompanying accounting policies and notes form part of these Financial Statements.

NOTES TO FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2001

1 Administration costs include

	30 June 2001	30 June 2000
	\$	\$
Fees paid to Auditors:		
– External audit	8,500	9,000
– Other services	7,476	1,280
Increase (decrease) in provision for doubtful debts	(215)	72
Rental expenses on operating leases	10,445	9,162
Rent and rates on office accommodation	405,779	407,796

2 Receivables and prepayments

	30 June 2001	30 June 2000
	\$	\$
Sundry debtors	22,999	7,945
GST receivable	16,811	9,882
Trade debtors	676	2,592
Less: Provision for doubtful debts	(61)	(276)
Prepayments	0	14,603
Total	40,425	34,746

3 Fixed assets

	Cost/ valuation	Accumulated depreciation	Net book value 30 June 2001	Net book value 30 June 2000
	\$	\$	\$	\$
Computer equipment	37,058	16,185	20,873	80,697
Furniture and fittings	158,629	0	158,629	21,575
Office equipment	35,867	0	35,867	32,702
Computer software	307,596	228,694	78,902	118,354
Library collections	726,493	439,333	287,160	273,202
Total	1,265,643	684,212	581,431	526,530

Furniture and fittings and office equipment are at depreciated replacement value as determined by independent valuer Rolle Ltd – a qualified valuer. The valuation was confirmed on 18 June 2001.

The valuation of furniture and fittings as at 30 June 2001 was \$150,048 more than the book value. This amount has been

transferred to the Furniture and Fittings Revaluation Reserve account.

The valuation of office equipment as at 30 June 2001 was \$8,669 more than the book value. This amount has been transferred to the Office Equipment Revaluation Reserve account.

4 Payables and accruals

	30 June 2001	30 June 2000
	\$	\$
Suppliers of goods and services	90,063	46,647
Employee entitlements	36,353	104,643
Accrued expenses	72,059	26,267
Other creditors	19,085	134,352
Total	<u>217,560</u>	<u>311,909</u>

5 Commitments

Capital expenditure commitments

Commitment for capital expenditure (to purchase computer hardware) at balance date was \$123,956 (30 June 2000, \$ Nil).

Lease commitments

Commitments for non cancellable leases on rental office accommodation (till 30 June 2007), Commissioner's rental accommodation (till 21 April 2002) and office equipment (till 24 July 2004):

	30 June 2001	30 June 2000
	\$	\$
Less than one year	412,060	402,256
Between 1–2 years	377,040	372,232
Between 2–3 years	377,040	369,180
Between 3–4 years	369,835	369,180
Between 4–5 years	369,180	369,180
Over 5 years	369,180	738,360

6 Contingent liabilities and assets

There are no material contingent liabilities or assets as at balance date (30 June 2000, \$Nil).

7 Related party information

The Law Commission is a Crown owned entity. The Commission received from the Ministry of Justice \$2,727,186 (includes amounts

deducted and invoiced for Judicial salaries) as grant for the financial year (year ended 30 June 2000, \$ 2,988,980).

8 Financial instruments

Fair value

The fair value of financial instruments is equivalent to the carrying amount disclosed in the Statement of Financial Position.

Credit risk

Credit risk is the risk that an outside party will not be able to meet its obligations to the Commission.

Financial Assets that potentially subject the Commission to a concentration of credit risk consist principally of cash, short-term deposits and receivables.

The cash and short-term deposits are placed with the Bank of New Zealand and the National Bank, both high-quality banks.

The concentration of credit risk with respect to receivables is limited by its small value and the relatively large number of customers involved.

The Commission does not have exposure to interest rate or currency risks.

9 Remuneration of the Chief Executive

In terms of the Law Commission Act 1985, the President of the Commission is the Chief Executive. The current President, and the previous President whose term expired on 31 March 2001, are High Court Judges and are paid by the Department for Courts as High Court Judges. The Commission reimbursed \$84,099 for the previous President and \$19,324 for the current President on account of this. The amounts do not represent the actual remuneration received by the individuals involved. In determining the amounts, consideration has been given to the fact that these Judges sit in the High Court and the Court of Appeal from time to time.

10 Remuneration of Commissioners and Staff

Remuneration range \$	Number
Between 100,000 and 110,000	1
Between 110,001 and 120,000	2
Between 200,000 and 210,000	1

One Commissioner who is a District Court Judge was paid by the Department for Courts as a District Court Judge. The Commission

reimbursed \$113,520 on account of this. The amount does not represent the actual remuneration received by the Judge. In determining the amount, consideration has been given to the fact that the Judge carried out some judicial functions during the year.

Statement of service performance for the year ended 30 June 2001

OUTPUT CLASS: POLICY ADVICE

Budgeted expenditure: \$3,510,430

Actual expenditure: \$3,036,317

QUALITY

All outputs and other work completed by the end of the year met the quality standards set out on pages 42–44, to the extent applicable.

QUANTITY AND TIMELINESS

The work produced by the Commission is set out in the annual work programme submitted to the Minister of Justice under section 7(1) of the Law Commission Act 1985. The work programme is subject to revision from time to time.

The statement of service performance reports the outputs produced during the financial year as compared with those established in the annual work programme agreed in the Memorandum of Understanding with the Minister of Justice.

Public Law

Output	Planned	Actual
Judicial Review – Preliminary Paper	October 2000	Study Paper NZLC SP10 released in March 2001
Civil Liability of the Crown – Report	March 2001	Study Paper NZLC SP6 released in December 2000

Output	Planned	Actual
Acquittal Following Perversion of the Course of Justice: A Response to <i>R v Moore</i> – Preliminary Paper	October 2000	Preliminary Paper NZLC PP42 released in September 2000
– Report	March 2001	Report NZLC R70 released in March 2001
Adoption – Report	September 2000	Report NZLC R65 released in September 2000
Privacy – Preliminary Paper	December 2000	Awaiting a reference from the Minister
Misuse of Enduring Powers of Attorney – Report	December 2000	Report NZLC R71 released in April 2001

Common Law

Output	Planned	Actual
Defamation – Report	October 2000	Report NZLC R69 released in February 2001
Limitation of Actions – Report	July 2000	Report NZLC R61 released in July 2000

Criminal Law

Output	Planned	Actual
Juries in Criminal Trials – Report	December 2000	Report NZLC R69 released in February 2001
Prosecution – Report	November 2000	Report NZLC R66 released in November 2000

Output	Planned	Actual
Battered Defendants		
– Preliminary Paper	August 2000	Preliminary Paper NZLC PP41 released in August 2000
– Report	March 2001	Report NZLC R73 sent to Minister in May 2001. Released in July 2001
Tax and Privilege		
– Report	October 2000	Report NZLC R67 released in October 2000
Simplification of Criminal Procedure Legislation		
– Study Paper	December 2000	Paper sent to Ministry of Justice on 27 October 2000. Study Paper NZLC SP7 released in January 2001

Commercial Law

Output	Planned	Actual
Insolvency – Advice to the Ministry of Economic Development (MED)	Advice to MED on 28 February 2001	Report delivered to MED on 28 February 2001. Study Paper NZLC SP11 published May 2001
Adopting International Trade Conventions		
– Study Paper	November 2000	Study Paper NZLC SP5 released in November 2000
Electronic Commerce Part Three: Remaining Issues		
– Report	December 2000	Report NZLC R68 released in December 2000

Output	Planned	Actual
Abuse of Process and Maintenance and Champerty – Preliminary Paper	December 2000	Preliminary Paper NZLC PP43 – Subsidising Litigation released in December 2000 – Report NZLC R72 released in May 2001

The Treaty of Waitangi

Output	Planned	Actual
Coroners – Report	July 2000	Report NZLC R62 released in August 2000
Determining Representation Rights under Te Ture Whenua Māori Act 1993 – Advisory Report for Te Puni Kōkiri	August 2000	Advisory report sent to Te Puni Kōkiri on 23 August 2000 Study Paper NZLC SP8 released in March 2001
Māori Custom Law – Study Paper	December 2000	Study Paper NZLC SP9 released in March 2001

Advisory Work

The Commission advised Government departments on the following subjects:

Consumer credit law reform

Criminal disclosure regime

Criminal prosecution

Foetal tissue sampling

Patent attorney regulation

Sentencing reform

Submissions were made on the following Bills:

Construction Contracts Bill

Crimes Amendment Bill No 6

Electronic Transaction Bill

Habeas Corpus Bill

Personal Property (Relationships) Amendment Bill

Prostitution Reform Bill

Victims Rights Bill

and to the Government Administration Committee's inquiry into the Films, Videos and Publications Classifications Act 1993

The Commission carried out follow-up work on the following Law Commission reports:

Adoption and its Alternatives: A Different Approach and a New Framework NZLC R65

Costs in Criminal Cases NZLC R60

Criminal Prosecution NZLC R66

Juries in Criminal Trials NZLC R69

A Personal Property Securities Act for New Zealand NZLC R8

Work in Progress

Some work has been done on the following projects, which are on the work programme for the year ending 30 June 2002:

After Settlement Asset Project

Entry, Search and Seizure

An Evaluation of the Arbitration Act 1996

A Factual Basis for Sentencing

Minority Buy-Outs

A Review of Joint Family Homes Act 1950

Status Hearings

COSTS

The costs listed below for each area of project activity consist of both direct and indirect costs. Direct costs include Commissioners and staff time (recorded in the Practice Management System) and all other costs that can be directly identified with individual projects. Indirect costs are those that cannot be identified directly with a project which are allocated so that the total cost of the Commission is reflected in its outputs.

Project	Budget	Actual
	\$	\$
Public Law	586,649	405,653
Commercial Law	571,018	546,630
Criminal Law	1,110,735	956,988
Common Law	48,967	46,961
The Treaty of Waitangi	539,874	534,083
Advisory Work and Submissions	653,187	546,002
Total	3,510,430	3,036,317

PERFORMANCE STANDARDS

Background

Functions of the Commission

The Law Commission Act 1985 stipulates four key activities for the Law Commission. These are:

- to systematically review the law of New Zealand (section 5(1)(a));
- recommend reform and development of the law of New Zealand (section 5(1)(b));
- advise on the review of the law of New Zealand conducted by a department or other organisation or on resulting proposals (section 5(1)(c)); and
- advise the Minister of Justice on ways in which the law of New Zealand can be made as understandable and accessible as is practicable (section 5(1)(d)).

Work Programme

The Commission's yearly programme of the above activities are selected by:

- references from the Minister of Justice in terms of section 7 of the Law Commission Act;

- projects selected by the Commission on its own initiative (but in practice usually in consultation with the Minister of Justice (section 5 of the Law Commission Act)); and
- projects selected at the request of other State agencies (section 5 of the Law Commission Act).

Outputs

The Commission's key outputs usually appear in published form. There are four types of publications:

- *Preliminary papers.* For each project the Commission usually publishes a discussion paper on which interested parties are invited to make submissions.
- *Reports.* In most cases a report will follow a preliminary paper. Reports are produced after taking into account the submissions made by the interested parties. Reports will contain recommendations for law changes and/or new laws. In some cases they will include draft legislation. Reports are tabled in Parliament by the Minister of Justice.
- *Miscellaneous papers.* A miscellaneous paper doesn't recommend law changes but contains the findings of the research done on specific subjects that are considered important.
- *Study papers.* A series of publications which include advice given to other government departments on specific matters and studies on subjects of a general nature.

Performance standards

The performance of the Commission is measured against the following four standards: quality, quantity, timeliness and cost.

Quality

Quality is achieved by ensuring the following:

- *Purpose.* The purpose will be clearly identified and focused on remedying the mischief to which it is addressed.
- *Logic.* All argument will be logical and supported by facts, and explain any assumptions made.
- *Accurate research.* The paper will be supported by research that is thorough, accurate and takes account of all relevant material.
- *Practicality.* The paper will consider questions of practicality, especially issues of implementation, cost, technical feasibility, timing, and consistency with other Commission policies.
- *Consultation.* Advice and recommendations will be the result of appropriate consultation with interested parties, and all reasonable objections will be identified. All submissions will be carefully considered before the final report.

- *Peer Review.* In many cases, selected external experts will review the papers.
- *Internal review.* Each publication will be subjected to rigorous and critical review by all the Commissioners.
- *Presentation.* The paper will be written in as clear a manner as accepted legal phrasing allows.

Quantity

The projects listed in the work programme will be completed.

Timeliness

Timeliness will be achieved by meeting the reporting date set in the work programme. However, unless the Commission is expressly called upon to meet a particular timeframe, reporting dates are arrived at for the internal purposes of the Commission in relation to such matters as workflow control. Predicted dates can in practice be exceeded for a number of reasons, which include such factors as setting aside a particular project to meet a more urgent subsequent deadline and unforeseeable developments in the topic under discussion.

Cost

Each project will be completed within the budgeted cost.



REPORT OF THE AUDIT OFFICE

TO THE READERS OF THE FINANCIAL STATEMENTS
OF THE LAW COMMISSION
FOR THE YEAR ENDED 30 JUNE 2001

We have audited the financial statements on pages 24 to 44. The financial statements provide information about the past financial and service performance of the Law Commission and its financial position as at 30 June 2001. This information is stated in accordance with the accounting policies set out on pages 24 to 26.

Responsibilities of the Members of the Law Commission

The Public Finance Act 1989 requires the Members of the Law Commission to prepare financial statements in accordance with generally accepted accounting practice which fairly reflect the financial position of the Law Commission as at 30 June 2001, the results of its operations and cash flows and the service performance achievements for the year ended 30 June 2001.

Auditor's responsibilities

Section 43(1) of the Public Finance Act 1989 requires the Audit Office to audit the financial statements presented by the Law Commission. It is the responsibility of the Audit Office to express an independent opinion on the financial statements and report its opinion to you.

The Controller and Auditor-General has appointed HC Lim, of Audit New Zealand, to undertake the audit.

Basis of opinion

An audit includes examining, on a test basis, evidence relevant to the amounts and disclosures in the financial statements. It also includes assessing:

- the significant estimates and judgements made by the Members of the Law Commission in the preparation of the financial statements; *and*

- whether the accounting policies are appropriate to the Law Commission's circumstances, consistently applied and adequately disclosed.

We conducted our audit in accordance with generally accepted auditing standards, including the Auditing Standards issued by the Institute of Chartered Accountants of New Zealand. We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatements, whether caused by fraud or error. In forming our opinion, we also evaluated the overall adequacy of the presentation of information in the financial statements.

We have performed assurance-related assignments for the Law Commission. Other than these assignments and in our capacity as auditor acting on behalf of the Controller and Auditor-General, we have no relationship with or interests in the Law Commission.

Unqualified opinion

We have obtained all the information and explanations we have required.

In our opinion the financial statements of the Law Commission on pages 24 to 44:

- comply with generally accepted accounting practice; *and*
- fairly reflect:
 - the financial position as at 30 June 2001;
 - the results of its operations and cash flows for the year ended on that date; *and*
 - the service performance achievements in relation to the performance targets and other measures adopted for the year ended on that date.

Our audit was completed on 31 August 2001 and our unqualified opinion is expressed as at that date.

HC Lim
Audit New Zealand
On behalf of the Controller and Auditor-General
Wellington, New Zealand

APPENDIX A
Members and staff of
the Law Commission as at
30 June 2001

MEMBERS OF THE LAW COMMISSION

The Hon Justice J Bruce Robertson – President
DF Dugdale
Paul Heath QC
Judge Patrick Keane
Dr Ngatata Love QSO JP
Vivienne Ullrich QC

PERMANENT STAFF OF THE LAW
COMMISSION

Executive Manager	Bala Benjamin
Senior Legal Researcher	Louise Symons
Legal Researchers	Helen Colebrook Michael Josling David Thompson Amelia Bardsley
Library Manager	Judith Porter
Reference Librarian	Barbara McPhee
Serials Librarian	Jacqueline Kitchen
Student Library Assistant	Marcus McMillan
Publications and Information Officer	Anne Tucker
Secretaries	Helen Barrett Anthea Miller Barbara Sutton Gloria Hakiwai

Receptionist/Assistant Publications Officer
Systems Administrator
Administration and Library Assistant
Finance and Administration Assistant

Colleen Gurney
Brenda Speak
Marilyn Cameron
Andrew Wong She

APPENDIX B
Law Commission Publications as at 30 June 2001

REPORT SERIES

No	Name	Released	Outcome
NZLC R1	Imperial Legislation in Force in New Zealand	March 1987	Largely implemented by the Imperial Laws Application Act 1988 and associated legislation
NZLC R2	Annual Report	1987	
NZLC R3	The Accident Compensation Scheme: Interim Report on Aspects of Funding	November 1987	Considered in preparing the Accident Rehabilitation and Compensation Insurance Act 1992 and some recommendations reflected in its provisions
NZLC R4	Personal Injury: Prevention and Recovery (Report on the Accident Compensation Scheme)	May 1988	Considered also in connection with reviews of the Accident Rehabilitation and Compensation Insurance Act 1992 and implementing regulations undertaken in 1994
NZLC R5	Annual Report	1988	
NZLC R6	Limitation Defences in Civil Proceedings	October 1988	Re-examined in discussion paper NZLC PP39 <i>Limitation of Civil Actions</i>

No	Name	Released	Outcome
NZLC R7	The Structure of the Courts	March 1989	Substantial effect given to the Commission's recommendations in the various enactments passed to reform the jurisdiction of the courts in 1991 and 1992
NZLC R8	A Personal Property Securities Act for New Zealand	April 1989	Implemented by the Personal Property Securities Act 1999
NZLC R9	Company Law: Reform and Restatement	June 1989	Companies Act 1993, Receiverships Act 1993, and amendments to the Property Law Act 1952 and the Companies Act 1955 entered into force on 1 July 1994
NZLC R10	Annual Report	1989	
NZLC R11	Legislation and its Interpretation: Statutory Publications Bill	September 1989	Implemented in part by the Regulations (Disallowance) Act 1989 and the Acts and Regulations Publications Act 1989
NZLC R12	First Report on Emergencies: Use of the Armed Forces	February 1990	Implemented in the Defence Act 1990
NZLC R13	Intellectual Property: The Context for Reform	March 1990	For use as a resource. No law changes recommended
NZLC R14	Criminal Procedure: Part One: Disclosure and Committal	June 1990	Under consideration along with NZLC R66

No	Name	Released	Outcome
NZLC R15	Annual Report	1990	
NZLC R16	Company Law Reform: Transition and Revision	September 1990	A supplement to NZLC R9
NZLC R17	A New Interpretation Act: To Avoid “Prolivity and Tautology”	December 1990	Recommendations form the basis of the Interpretation Act 1999
NZLC R18	Aspects of Damages: Employment Contracts and the Rule in <i>Addis v Gramophone Co</i>	March 1991	Implemented almost in entirety by the Employment Contracts Act 1991
NZLC R19	Aspects of Damages: The Rules in <i>Bain v Fothergill</i> and <i>Joyner v Weeks</i>	May 1991	Abolition of the rule in <i>Bain v Fothergill</i> implemented by the Property Law Amendment Act 1994 Problems with the rule in <i>Joyner v Weeks</i> partially addressed in <i>Māori Trustee v Rogross Farms Ltd</i> [1994] 3 NZLR 410 (CA)
NZLC R20	Arbitration	October 1991	Implemented by the Arbitration Act 1996
NZLC R21	Annual Report	1991	
NZLC R22	Final Report on Emergencies	December 1991	A supplement to NZLC R12
NZLC R23	The United Nations Convention on Contracts for the International Sale of Goods: New Zealand’s Proposed Acceptance	June 1992	Implemented by the Sale of Goods (United Nations Convention) Act 1994

No	Name	Released	Outcome
NZLC R24	Annual Report	1992	
NZLC R25	Contract Statutes Review	May 1993	No action
NZLC R26	Annual Report	1993	
NZLC R27	The Format of Legislation	December 1993	Adopted by Chief Parliamentary Counsel
NZLC R28	Aspects of Damages: The Award of Interest on Money Claims	May 1994	No action
NZLC R29	A New Property Law Act	June 1994	No action
NZLC R30	Community Safety: Mental Health and Criminal Justice Issues	August 1994	Further reform under consideration by Minister of Health and Minister of Justice respectively
NZLC R31	Police Questioning	October 1994	Under consideration by the Minister of Justice
NZLC R32	Annual Report	1994	
NZLC R33	Annual Report	1995	
NZLC R34	A New Zealand Guide to International Law and its Sources	May 1996	For use as a resource – no law changes recommended
NZLC R35	Legislation Manual: Structure and Style	May 1996	For use as a resource Proposals on structure and style substantially adopted by the Parliamentary Counsel Office and in widespread use
NZLC R36	Annual Report	1996	

No	Name	Released	Outcome
NZLC R37	Crown Liability and Judicial Immunity: A Response to <i>Baigent's</i> case and <i>Harvey v Derrick</i>	May 1997	Recommendations as to <i>Baigent's</i> case accepted Recommendation for extended judicial immunity the subject of Constitution Bill before Parliament. Implemented in part by section 26 Interpretation Act 1999
NZLC R38	Succession Law: Homicidal Heirs	July 1997	No action
NZLC R39	Succession Law: A Succession (Adjustment) Act	August 1997	No action but some reflection in judgments of criticism of awards to adult children
NZLC R40	Review of the Official Information Act 1982	October 1997	No action
NZLC R41	Succession Law: A Succession (Wills) Act	October 1997	Recommendation expected from Ministers of Justice to Cabinet that it be enacted
NZLC R42	Evidence Law: Witness Anonymity	October 1997	Largely implemented by the Evidence (Witness Anonymity) Act 1997
NZLC R43	Annual Report	1997	
NZLC R44	Habeas Corpus: Procedure	November 1997	Implemented by Habeas Corpus Act 2001
NZLC R45	The Treaty Making Process: Reform and the Role of Parliament	December 1997	Partially implemented by proposed changes to Standing Orders For use as a resource
NZLC R46	Some Insurance Law Problems	May 1998	Recommendation expected from Ministers of Justice to Cabinet that it be enacted
NZLC R47	Apportionment of Civil Liability	May 1998	No action

No	Name	Released	Outcome
NZLC R48	Annual Report	September 1998	
NZLC R49	Compensating the Wrongly Convicted (1998)	September 1998	Implemented
NZLC R50	Electronic Commerce Part One: A Guide for the Legal and Business Community	October 1998	Followed by Part Two No recommendations made but basis for law reform to accommodate needs of electronic commerce explored and submissions invited: see further NZLC R58
NZLC R51	Dishonestly Procuring Valuable Benefits	December 1998	The result recommended achieved in a different way by the Crimes Amendment Bill (No 6) 1999
NZLC R52	Cross-Border Insolvency: Should New Zealand Adopt the UNCITRAL Model Law on Cross-Border Insolvency?	February 1999	Under consideration as part of the Ministry of Economic Development's insolvency law review
NZLC R53	Justice: The Experiences of Māori Women Te Tikanga o te Ture: Te Mātauranga o ngā Wāhine Māori e pa ana ki tēnei	April 1999	No specific measures proposed
NZLC R54	Computer Misuse	May 1999	Most recommendations included in the Crimes Amendment Bill (No 6) and Supplementary Order Paper No 85 reported back from the Law and Order Select Committee
NZLC R55	Evidence	August 1999	Early implementation indicated
NZLC R56	Annual Report	September 1999	

No	Name	Released	Outcome
NZLC R57	Retirement Villages	September 1999	Early implementation indicated
NZLC R58	Electronic Commerce Part Two: A Basic Legal Framework	November 1999	Recommendations reflected in Electronic Transactions Bill reported back from Commerce Committee on 19 June 2001
NZLC R59	Shared Ownership of Land	November 1999	No action
NZLC R60	Costs in Criminal Cases	May 2000	No action proposed by report
NZLC R61	Tidying the Limitation Act	July 2000	No action
NZLC R62	Coroners	August 2000	Early implementation indicated
NZLC R63	Annual Report 2000	August 2000	
NZLC R64	Defaming Politicians: A Response to <i>Lange v Atkinson</i>	August 2000	No action
NZLC R65	Adoption and Its Alternatives: A Different Approach and a New Framework	September 2000	The Government Administration Select Committee is currently considering the laws relating to adoption and required changes based on Law Commission report
NZLC R66	Criminal Prosecution	October 2000	Under consideration
NZLC R67	Tax and Privilege: Legal Professional Privilege and the Commissioner of Inland Revenue's Powers to Obtain Information	October 2000	No action
NZLC R68	Electronic Commerce Part Three: Remaining Issues	December 2000	No legislative amendments recommended; additional policy work on remaining issues being undertaken by Ministry of Economic Development and Ministry of Consumer Affairs, among others

No	Name	Released	Outcome
NZLC R69	Juries in Criminal Trials	February 2001	Under consideration
NZLC R70	Aquittal Following Perversion of the Course of Justice	March 2001	Under consideration
NZLC R71	Misuse of Enduring Powers of Attorney	April 2001	Under consideration
NZLC R72	Subsidising Litigation	May 2001	Proposals concerning contingency fees expected to be reflected in the bill to replace Law Practitioners Act
NZLC R73	Some Criminal Defences with Particular Reference to Battered Defendants	May 2001	Early implementation of some proposals indicated

PRELIMINARY PAPER SERIES

No	Name	Released	Outcome
NZLC PP1	Legislation and its Interpretation: The Acts Interpretation Act 1924 and Related Legislation	June 1987	Followed by report NZLC R17
NZLC PP2	The Accident Compensation Scheme	September 1987	Followed by reports NZLC R3 and NZLC R4

No	Name	Released	Outcome
NZLC PP3	The Limitation Act 1950	September 1987	Followed by report NZLC R6
NZLC PP4	The Structure of the Courts	December 1987	Followed by report NZLC R7
NZLC PP5	Company Law	December 1987	Followed by reports NZLC R9 and NZLC R16
NZLC PP6	Reform of Personal Property Security Law (report by Prof JH Farrar and MA O'Regan)	1988	Followed by report NZLC R8
NZLC PP7	Arbitration	November 1988	Followed by report NZLC R20
NZLC PP8	Legislation and its Interpretation	December 1988	Followed by report NZLC R17
NZLC PP9	The Treaty of Waitangi and Māori Fisheries – Mataitai Nga Tikanga Māori me te Tiriti o Waitangi	March 1989	For use as a resource Reference withdrawn by the Minister of Justice at the Law Commission's request
NZLC PP10	Hearsay Evidence	June 1989	Followed by report NZLC R55
NZLC PP11	“Unfair” Contracts	September 1990	No further consideration is intended
NZLC PP12	The Prosecution of Offences	November 1990	Followed by discussion paper NZLC PP28
NZLC PP13	Evidence Law: Principles for Reform	April 1991	Followed by report NZLC R55
NZLC PP14	Evidence Law: Codification	April 1991	Followed by report NZLC R55
NZLC PP15	Evidence Law: Hearsay	April 1991	Followed by report NZLC R55
NZLC PP16	The Property Law Act 1952	July 1991	Followed by report NZLC R29

No	Name	Released	Outcome
NZLC PP17	Aspects of Damages: Interest on Debts and Damages	November 1991	Followed by report NZLC R28
NZLC PP18	Evidence Law: Expert Evidence and Opinion Evidence	December 1991	Followed by report NZLC R55
NZLC PP19	Apportionment of Civil Liability	March 1992	Followed by report NZLC R47
NZLC PP20	Tenure and Estates in Land	June 1992	No further consideration is intended
NZLC PP21	Criminal Evidence: Police Questioning	September 1993	Followed by report NZLC R31
NZLC PP22	Evidence Law: Documentary Paper	May 1994	Followed by report NZLC R55
NZLC PP23	Evidence Law: Privilege	May 1994	Followed by report NZLC R55
NZLC PP24	Succession Law: Testamentary Claims	August 1996	Followed by reports NZLC R38, NZLC R39, and NZLC R41
NZLC PP25	The Privilege Against Self-Incrimination	September 1996	Followed by report NZLC R55
NZLC PP26	The Evidence of Children and Other Vulnerable Witnesses	October 1996	Followed by report NZLC R55
NZLC PP27	Evidence Law: Character and Credibility	February 1997	Followed by report NZLC R55
NZLC PP28	Criminal Prosecution	March 1997	Followed by report NZLC R66
NZLC PP29	Evidence Law: Witness Anonymity	September 1997	Followed by report NZLC R42

No	Name	Released	Outcome
NZLC PP30	Repeal of the Contracts Enforcement Act 1956	December 1997	Deferred
NZLC PP31	Compensation for Wrongful Conviction or Prosecution	April 1998	Followed by report NZLC R49
NZLC PP32	Juries in Criminal Trials: Part One	July 1998	Followed by Juries in Criminal Trials: Part Two NZLC PP37 and report NZLC R69
NZLC PP33	Defaming Politicians: A Response to <i>Lange v Atkinson</i>	September 1998	Followed by report NZLC R64
NZLC PP34	Retirement Villages	October 1998	Followed by report NZLC R57
NZLC PP35	Shared Ownership of Land	January 1999	Followed by report NZLC R59
NZLC PP36	Coroners: A Review	August 1999	Followed by report NZLC R62
NZLC PP37	Juries in Criminal Trials: Part Two	November 1999	Followed by report NZLC R69
NZLC PP38	Adoption: Options for Reform	October 1999	Followed by report NZLC R65
NZLC PP39	Limitation of Civil Actions	February 2000	Followed by report NZLC R61
NZLC PP40	Misuse of Enduring Powers of Attorney	May 2000	Followed by report NZLC R71
NZLC PP41	Battered Defendants: Victims of Domestic Violence Who Offend	August 2000	Followed by report NZLC R73
NZLC PP42	Acquittal Following Perversion of the Course of Justice: A Response to <i>R v Moore</i>	September 2000	Followed by report NZLC R70

No	Name	Released	Outcome
NZLC PP43	Subsidising Litigation	December 2000	Followed by report NZLC R72

STUDY PAPER SERIES

No	Name	Released	Outcome
NZLC SP1	Women's Access to Legal Services	June 1999	No specific measures proposed
NZLC SP2	Priority Debts in the Distribution of Insolvent Estates: An Advisory Report to the Ministry of Commerce	October 1999	Awaits completion of the Ministry of Economic Development's review of insolvency law
NZLC SP3	Protecting Construction Contractors	November 1999	Adopted in Construction Contracts Bill currently before Parliament
NZLC SP4	Recognising Same-Sex Relationships	December 1999	Submission to the Ministry of Justice – no further Law Commission action required
NZLC SP5	International Trade Conventions	November 2000	Resource only
NZLC SP6	To Bind their Kings in Chains: An Advisory Report to the Ministry of Justice	December 2000	Reflected in provisions of Crown Organisations (Criminal Liability) Bill
NZLC SP7	Simplification of Criminal Procedure Legislation: An Advisory Report to the Ministry of Justice	January 2001	Under consideration

No	Name	Released	Outcome
NZLC SP8	Determining Representation Rights under Te Ture Whenua Māori Act 1993: An Advisory Report for Te Puni Kōkiri	March 2001	Under consideration
NZLC SP9	Māori Custom and Values in New Zealand Law	March 2001	Resource only
NZLC SP10	Mandatory Orders Against the Crown and Tidying Judicial Review	March 2001	No action
NZLC SP11	Insolvency Law Reform: Promoting Trust and Confidence: An Advisory Report to the Ministry of Economic Development	May 2001	Awaits completion of the Ministry of Economic Development's review of insolvency law

MISCELLANEOUS PAPER SERIES

No	Name	Released	Outcome
NZLC MP1	What Should Happen to your Property when you Die?	August 1996	Preliminary to NZLC R39 and NZLC R41
NZLC MP2	Succession Law: Wills Reforms	October 1996	Preliminary to NZLC R39 and NZLC R41
NZLC MP3	Information about Lawyers' Fees	October 1996	Preliminary to NZLC SP1
NZLC MP4	Women's Access to Legal Information	March 1997	Preliminary to NZLC SP1

No	Name	Released	Outcome
NZLC MP5	The Law of Parliamentary Privilege	December 1996	Resource only
NZLC MP6	The Taking into Account of Te Ao Māori in Relation to Reform of the Law of Succession	July 1996	Resource only
NZLC MP7	Strategic Business Plan 1996/97	December 1996	
NZLC MP8	Women's Access to Civil Legal Aid	March 1997	Preliminary to NZLC SP1
NZLC MP9	Women's Access to Legal Advice and Representation	April 1997	Preliminary to NZLC SP1
NZLC MP10	Lawyers' Costs in Family Law Disputes	June 1997	Preliminary to NZLC SP1
NZLC MP11	The Education and Training of Law Students and Lawyers	September 1997	Preliminary to NZLC SP1
NZLC MP12	Costs in Criminal Cases	November 1997	Followed by report NZLC R60
NZLC MP13	Aspects of Memory	August 1999	Resource only

OTHER LAW COMMISSION PUBLICATIONS

Report series

- NZLC R1 Imperial Legislation in Force in New Zealand (1987)
- NZLC R2 Annual Reports for the years ended 31 March 1986 and 31 March 1987 (1987)
- NZLC R3 The Accident Compensation Scheme (Interim Report on Aspects of Funding) (1987)
- NZLC R4 Personal Injury: Prevention and Recovery (Report on the Accident Compensation Scheme) (1988)
- NZLC R5 Annual Report 1988 (1988)
- NZLC R6 Limitation Defences in Civil Proceedings (1988)
- NZLC R7 The Structure of the Courts (1989)
- NZLC R8 A Personal Property Securities Act for New Zealand (1989)
- NZLC R9 Company Law: Reform and Restatement (1989)
- NZLC R10 Annual Report 1989 (1989)
- NZLC R11 Legislation and its Interpretation: Statutory Publications Bill (1989)
- NZLC R12 First Report on Emergencies: Use of the Armed Forces (1990)
- NZLC R13 Intellectual Property: The Context for Reform (1990)
- NZLC R14 Criminal Procedure: Part One: Disclosure and Committal (1990)
- NZLC R15 Annual Report 1990 (1990)
- NZLC R16 Company Law Reform: Transition and Revision (1990)
- NZLC R17(S) A New Interpretation Act: To Avoid “Prolixity and Tautology” (1990) (and Summary Version)
- NZLC R18 Aspects of Damages: Employment Contracts and the Rule in *Addis v Gramophone Co* (1991)
- NZLC R19 Aspects of Damages: The Rules in *Bain v Fothergill* and *Joyner v Weeks* (1991)
- NZLC R20 Arbitration (1991)
- NZLC R21 Annual Report 1991 (1991)
- NZLC R22 Final Report on Emergencies (1991)
- NZLC R23 The United Nations Convention on Contracts for the International Sale of Goods: New Zealand’s Proposed Acceptance (1992)
- NZLC R24 Report for the period 1 April 1991 to 30 June 1992 (1992)
- NZLC R25 Contract Statutes Review (1993)
- NZLC R26 Report for the year ended 30 June 1993 (1993)
- NZLC R27 The Format of Legislation (1993)
- NZLC R28 Aspects of Damages: The Award of Interest on Money Claims (1994)
- NZLC R29 A New Property Law Act (1994)
- NZLC R30 Community Safety: Mental Health and Criminal Justice Issues (1994)
- NZLC R31 Police Questioning (1994)
- NZLC R32 Annual Report 1994 (1994)
- NZLC R33 Annual Report 1995 (1995)
- NZLC R34 A New Zealand Guide to International Law and its Sources (1996)
- NZLC R35 Legislation Manual: Structure and Style (1996)
- NZLC R36 Annual Report 1996 (1996)
- NZLC R37 Crown Liability and Judicial Immunity: A response to *Baigent’s* case and *Harvey v Derrick* (1997)
- NZLC R38 Succession Law: Homicidal Heirs (1997)

NZLC R39	Succession Law: A Succession (Adjustment) Act (1997)
NZLC R40	Review of the Official Information Act 1982 (1997)
NZLC R41	Succession Law: A Succession (Wills) Act (1997)
NZLC R42	Evidence Law: Witness Anonymity (1997)
NZLC R43	Annual Report 1997 (1997)
NZLC R44	Habeas Corpus: Procedure (1997)
NZLC R45	The Treaty Making Process: Reform and the Role of Parliament (1997)
NZLC R46	Some Insurance Law Problems (1998)
NZLC R47	Apportionment of Civil Liability (1998)
NZLC R48	Annual Report 1998 (1998)
NZLC R49	Compensating the Wrongly Convicted (1998)
NZLC R50	Electronic Commerce Part One: A Guide for the Legal and Business Community (1998)
NZLC R51	Dishonestly Procuring Valuable Benefits (1998)
NZLC R52	Cross-Border Insolvency: Should New Zealand adopt the UNCITRAL Model Law on Cross-Border Insolvency? (1999)
NZLC R53	Justice: The Experiences of Māori Women: Te Tikanga o te Ture: Te Mātauranga o ngā Wāhine Māori e pa ana ki tēnei (1999)
NZLC R54	Computer Misuse (1999)
NZLC R55	Evidence (1999)
NZLC R56	Annual Report 1999 (1999)
NZLC R57	Retirement Villages (1999)
NZLC R58	Electronic Commerce Part Two: A Basic Legal Framework (1999)
NZLC R59	Shared Ownership of Land (1999)
NZLC R60	Costs in Criminal Cases (2000)
NZLC R61	Tidying the Limitation Act (2000)
NZLC R62	Coroners (2000)
NZLC R63	Annual Report 2000 (2000)
NZLC R64	Defaming Politicians: A Response to <i>Lange v Atkinson</i> (2000)
NZLC R65	Adoption and Its Alternatives: A Different Approach and a New Framework (2000)
NZLC R66	Criminal Prosecution (2000)
NZLC R67	Tax and Privilege: Legal Professional Privilege and the Commissioner of Inland Revenue's Powers to Obtain Information (2000)
NZLC R68	Electronic Commerce Part Three: Remaining Issues (2000)
NZLC R69	Juries in Criminal Trials (2001)
NZLC R70	Acquittal Following Perversion of the Course of Justice (2001)
NZLC R71	Misuse of Enduring Powers of Attorney (2001)
NZLC R72	Subsidising Litigation (2001)
NZLC R73	Some Criminal Defences with Particular Reference to Battered Defendants (2001)
NZLC R74	Minority Buy-Outs (2001)

Study Paper series

NZLC SP1	Women's Access to Legal Services (1999)
NZLC SP2	Priority Debts in the Distribution of Insolvent Estates: An Advisory Report to the Ministry of Commerce
NZLC SP3	Protecting Construction Contractors (1999)

NZLC SP4	Recognising Same-Sex Relationships (1999)
NZLC SP5	International Trade Conventions (2000)
NZLC SP6	To Bind their Kings in Chains: An Advisory Report to the Ministry of Justice (2000)
NZLC SP7	Simplification of Criminal Procedure Legislation: An Advisory Report to the Ministry of Justice (2001)
NZLC SP8	Determining Representation Rights under Te Ture Whenua Māori Act 1993: An Advisory Report for Te Puni Kōkiri (2001)
NZLC SP9	Māori Custom and Values in New Zealand Law (2001)
NZLC SP10	Mandatory Orders Against the Crown and Tidying Judicial Review (2001)
NZLC SP11	Insolvency Law Reform: Promoting Trust and Confidence: An Advisory Report to the Ministry of Economic Development (2001)

Preliminary Paper series

NZLC PP1	Legislation and its Interpretation: The Acts Interpretation Act 1924 and Related Legislation (discussion paper and questionnaire) (1987)
NZLC PP2	The Accident Compensation Scheme (discussion paper) (1987)
NZLC PP3	The Limitation Act 1950 (discussion paper) (1987)
NZLC PP4	The Structure of the Courts (discussion paper) (1987)
NZLC PP5	Company Law (discussion paper) (1987)
NZLC PP6	Reform of Personal Property Security Law (report by Prof JH Farrar and MA O'Regan) (1988)
NZLC PP7	Arbitration (discussion paper) (1988)
NZLC PP8	Legislation and its Interpretation (discussion and seminar papers) (1988)
NZLC PP9	The Treaty of Waitangi and Māori Fisheries – Mataitai: Nga Tikanga Māori me te Tiriti o Waitangi (background paper) (1989)
NZLC PP10	Hearsay Evidence (options paper) (1989)
NZLC PP11	“Unfair” Contracts (discussion paper) (1990)
NZLC PP12	The Prosecution of Offences (issues paper) (1990)
NZLC PP13	Evidence Law: Principles for Reform (discussion paper) (1991)
NZLC PP14	Evidence Law: Codification (discussion paper) (1991)
NZLC PP15	Evidence Law: Hearsay (discussion paper) (1991)
NZLC PP16	The Property Law Act 1952 (discussion paper) (1991)
NZLC PP17	Aspects of Damages: Interest on Debt and Damages (discussion paper) (1991)
NZLC PP18	Evidence Law: Expert Evidence and Opinion Evidence (discussion paper) (1991)
NZLC PP19	Apportionment of Civil Liability (discussion paper) (1992)
NZLC PP20	Tenure and Estates in Land (discussion paper) (1992)
NZLC PP21	Criminal Evidence: Police Questioning (discussion paper) (1992)
NZLC PP22	Evidence Law: Documentary Evidence and Judicial Notice (discussion paper) (1994)
NZLC PP23	Evidence Law: Privilege (discussion paper) (1994)
NZLC PP24	Succession Law: Testamentary Claims (discussion paper) (1996)
NZLC PP25	The Privilege Against Self-Incrimination (discussion paper) (1996)
NZLC PP26	The Evidence of Children and Other Vulnerable Witnesses (discussion paper) (1996)
NZLC PP27	Evidence Law: Character and Credibility (discussion paper) (1997)

NZLC PP28	Criminal Prosecution (discussion paper) (1997)
NZLC PP29	Witness Anonymity (discussion paper) (1997)
NZLC PP30	Repeal of the Contracts Enforcement Act 1956 (discussion paper) (1997)
NZLC PP31	Compensation for Wrongful Conviction or Prosecution (discussion paper) (1998)
NZLC PP32	Juries in Criminal Trials: Part One (discussion paper) (1998)
NZLC PP33	Defaming Politicians: A Response to <i>Lange v Atkinson</i> (discussion paper) (1998)
NZLC PP34	Retirement Villages (discussion paper) (1998)
NZLC PP35	Shared Ownership of Land (discussion paper) (1999)
NZLC PP36	Coroners: A Review (discussion paper) (1999)
NZLC PP37	Juries in Criminal Trials: Part Two (discussion paper) (1999)
NZLC PP38	Adoption: Options for Reform (discussion paper) (1999)
NZLC PP39	Limitation of Civil Actions (discussion paper) (2000)
NZLC PP40	Misuse of Enduring Powers of Attorney (discussion paper) (2000)
NZLC PP41	Battered Defendants: Victims of Domestic Violence Who Offend (discussion paper) (2000)
NZLC PP42	Acquittal Following Perversion of the Course of Justice: A Response to <i>R v Moore</i> (discussion paper) (2000)
NZLC PP43	Subsidising Litigation (discussion paper) (2000)
NZLC PP44	The Future of the Joint Family Homes Act (2001)