



NEW ZEALAND
LAW SOCIETY

109th Annual Report
and
Statement of Accounts

for the year ended 30 November 2005



New Zealand Law Society Council 2005-2006

Front (from left): Jeff Walker (Southland), Pam Davidson (Wellington), Chris Darlow (President), Gary Gotlieb (Auckland), Pamela Andrews (Wellington).

Second row (from left): Jonathan Temm (NZLS Board), Benedict Ryan (Waikato DLS Executive Officer), Stuart Webster (Vice-President), Stephen Bryers (Vice-President).

Third row (from left): Geoff Brodie (Canterbury), Jacqui Gray (NZLS Board), Kevin Kilgour (NZLS Board), Anne Stevens (NZLS Board).

Fourth row (from left): Royden Somerville QC (Otago), Keith Berman (Auckland), Kate Davenport (NZLS Board).

Fifth row (from left): Ed Wylie QC (Canterbury), Rob Goldsbury (Wanganui), Gordon Webb (Gisborne), Chris Moore (Property Law Section Chair).

Sixth row (from left): Peter Ansley (Taranaki), John Brandts-Giesen (Canterbury), Len Andersen (Otago).

Back row (from left): Malcolm Ellis (Canterbury DLS Executive Director), Warren Pyke (Waikato Bay of Plenty), David Clarke (Wellington DLS Executive Director), Bruce Gilmour (Hawke's Bay), John Marshall (Vice-President), Gordon Paine (Manawatu), Chris Wright (Nelson), Simon Maude (Family Law Section Chair), Andrew Gilchrist (Auckland), Chris Corry (Wellington).

Absent: Kerry Ayers (Vice-President), Richard Bodle (Westland), Brian Fletcher (Marlborough), Liz Jamieson (Waikato Bay of Plenty), Nicolas Short (CLANZ President).

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*Be
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President's review



Chris Darlow

The year under review in this report is to 30 November 2005. With the Lawyers and Conveyancers Bill seemingly stalled in Parliament, I was set to comment mainly on other issues. However, as fate would have it, I had no sooner picked up the pen than the third reading was completed on 14 March 2006. So, finally, on to enactment and implementation.

It's a strange feeling. I am immediately drawn to reflect on the efforts of my predecessors – Cowley, Potter, Forbes, Haynes and Grice. All of them saw the inadequacies of the 1982 legislation. All encountered political intimidation. All were concerned by the danger to our self-regulation and independence being signalled from numerous comparable overseas countries. All of them contributed to the platform from which we have been able to influence policy and to gain maximum advantage for the profession out of threatening positions held over a long time by governments, both National-led and Labour-led.

Don't get me wrong. We didn't score our own way on everything and the bill certainly has some less than satisfactory features but, in comparison with options already in place or on their way elsewhere, we have cause for a sense of relief. I am particularly pleased that we have secured a modern legislative restatement of our core values in the form of fundamental obligations:

- to uphold the Rule of Law and to facilitate the administration of justice;
- to be independent in providing regulated services to our clients;
- to act in accordance with all fiduciary duties and the duties of care we owe to our clients;
- to protect, subject to our overriding duties as officers of the court and our duties under any enactment, the interests of our clients.

These things are part of the intuitive fabric of all of us but they can so easily be dismissed by our political and other opponents.

Importantly, the legislation will see the profession remaining responsible for the setting and maintaining of standards. We will be provided with much more effective powers, not only to regulate conduct but also to ensure lawyers provide good service. Other improvements will include a capped fidelity fund, the removal of the outmoded costs revisions procedures, the ability to incorporate and effective provisions relating to the work exclusive to us.

With the parliamentary process over, it is our responsibility now to take hold of what is a unique opportunity to ensure the policies behind the new act are properly implemented. It will be a challenging two-year process but I am greatly looking forward to it.

Law society annual reports may not be the most widely-read publications to fall into the profession's hands but may I nevertheless recommend a glance at the body of this report. Our regulatory reforms have been on centre stage for years. The uncertainty has been unsettling for all of us and, not least, for the law societies, both national and district, their staff, councils, sections, committees and groups. So it is a pleasure to have read in district reports and to see set out in this report the efforts made by so many people in so many areas of our practices and our governance. Grateful thanks to all involved for their contribution, support and encouragement.

Chris Darlow

Honours

Distinguished Companion of the New Zealand Order of Merit (DCNZM): David Carruthers, Paraparaumu Beach; David Gascoigne CBE, Wellington; Judge Anand Satyanand, Wellington; Rt Hon Andrew Tipping, Wellington.

Companion of the New Zealand Order of Merit (CNZM): Professor Emeritus Frederic Brookfield, Auckland; Paul East QC, Rotorua; Judge Thomas Goddard OBE, Wellington; Barry Paterson OBE, QC, Wellington; Melwyn Smith, Raumatī Beach.

Companion of the Queen's Service Order (QSO): Dail Jones, Kumeu.

Queen's Service Medal (QSM): Leo Steel, Christchurch.

Judiciary

Appointments

Supreme Court: Justice Sir Kenneth Keith (acting); Justice McGrath.

Court of Appeal: Justice Robertson.

High Court: Justice France; Justice Asher; Justice Lang; Justice Doogue (acting); Justice Nicholson (acting); Associate Judge David Abbott; Associate Judge Jeremy Doogue.

District Courts: Chief District Court Judge R J Johnson; Judge D A Burns; Judge T J Broadmore; Judge K B de Ridder; Judge D Flatley; Judge A D Garland; Judge A Johns; Judge D J McDonald; Judge I A McHardy; Judge M L Rogers; Judge S E Thomas; Judge R Wade; Judge A A Zohrab.

Employment Court: Employment Court Chief Judge G L Colgan; Judge A A Couch.

Judicial Conduct Commissioner: Ian Haynes ONZM, Auckland

Cessations

Supreme Court: Justice Sir Kenneth Keith.

High Court: Justice Laurenson; Justice Cook (died); Justice Hillyer (died).

District Courts: Chief District Court Judge D J Carruthers; Judge J P Doogue; Judge T H Everitt; Judge A E Gaskell; Judge D J R Holderness; Judge B J Kendall; Judge B R L Lovegrove; Judge D C McKegg; Judge L H Moore; Judge J O'Donovan.

Employment Court: Chief Judge T G Goddard.

Ombudsman: Judge A Satyanand.

Queen's Counsel appointments

Helen Aikman, Wellington; John Burrows, Canterbury; David Jones, Auckland; Tómas Kennedy-Grant, Auckland.

NZLS scholarships

Cleary Memorial Prize: Jonathan Scragg, Christchurch.

NZLS Centennial Scholarship: Rachel Opie, Wellington.

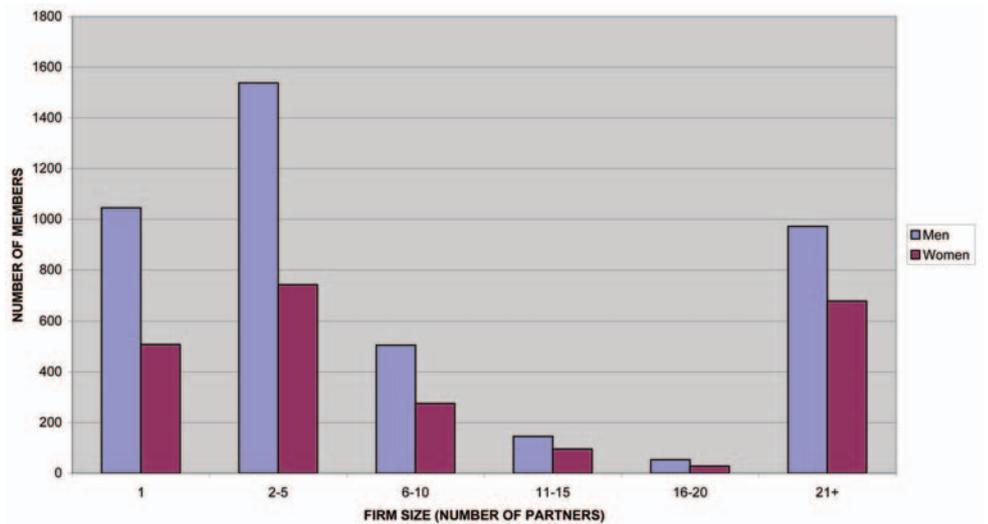
NZLS Centennial Maori Scholarships: Marcia Insley, Waikato University; Jaimee Kirby, Auckland University; James Morris, Otago University.

	PRACTISING CERTIFICATES ISSUED*						ADMISSIONS			
	Total	Total	Principals		Barristers sole		Male	Female	Total	Total
	2005	2004	2005	2004	2005	2004	2005	2005	2005	2004
Auckland	4,377	4,213	1,295	1,297	705	598	137	214	351	324
Canterbury	1,032	996	381	405	79	79	26	52	88	94
Gisborne	50	46	29	30	19	6	0	3	3	5
Hawke's Bay	205	197	104	100	15	13	2	1	3	3
Manawatu	129	130	71	65	13	16	1	2	3	2
Marlborough	50	49	22	24	3	2	0	1	1	0
Nelson	138	137	65	66	9	10	0	0	0	1
Otago	374	341	143	144	46	32	17	27	44	53
Southland	125	127	70	71	0	0	0	0	0	1
Taranaki	141	139	64	68	6	3	1	2	3	2
Waikato/BOP	882	844	351	341	119	113	43	67	110	73
Wanganui	65	66	44	45	5	5	0	0	0	1
Wellington	2,492	2,412	520	524	248	241	106	171	277	290
Westland	24	24	15	15	1	1	0	0	0	0
TOTAL	10,084	9,721	3,174	3,195	1,268	1,119	333	540	883	849
% incr/decr	3.7	0.5	-0.7	0.5	13.3	12.0			4.0	8.8
GENDER %										
Male	61	62	82	83		68	-	-	38	41
Female	39	38	18	17		32	-	-	62	59

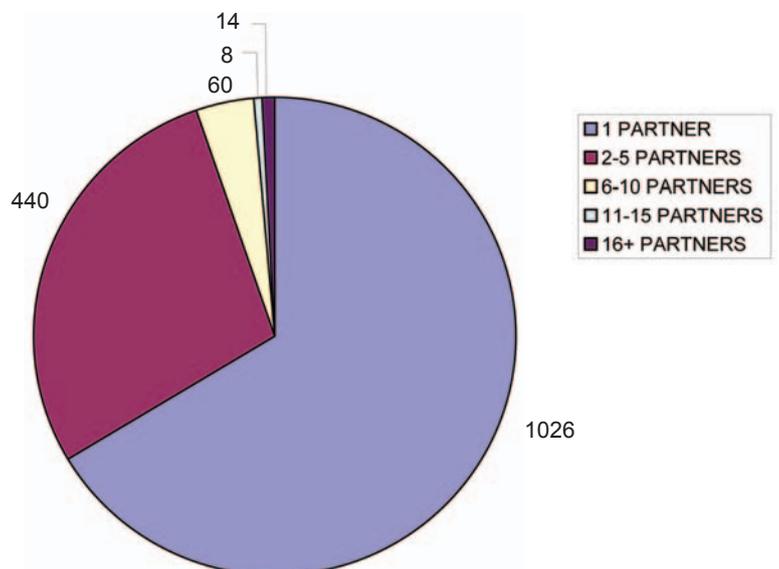
*NB: The certificates issued during 2005 do not necessarily represent actual members as at 30/11/05.

Members by size of firm

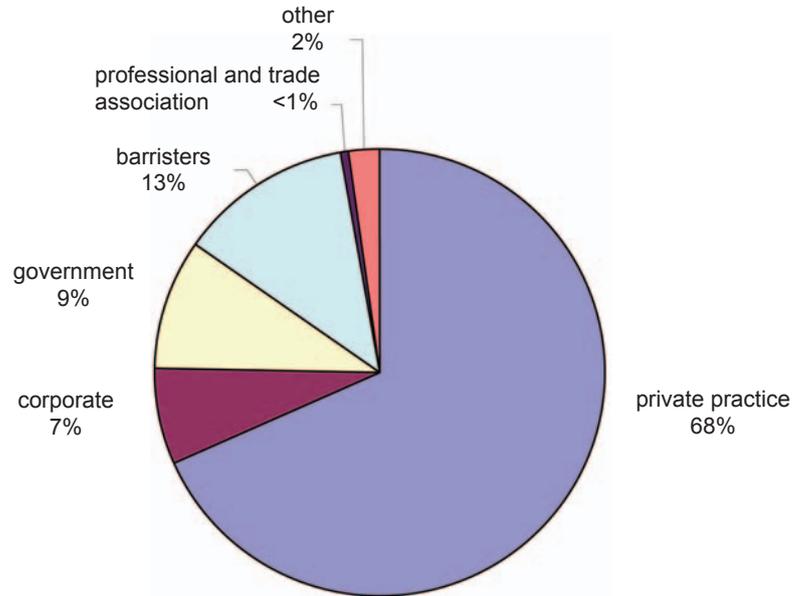
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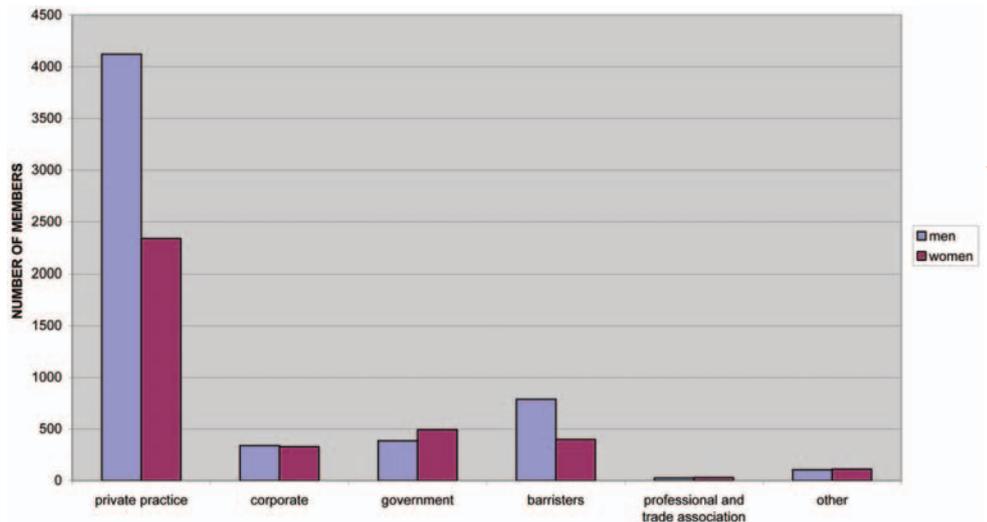
Size of law firms



Members by occupation type

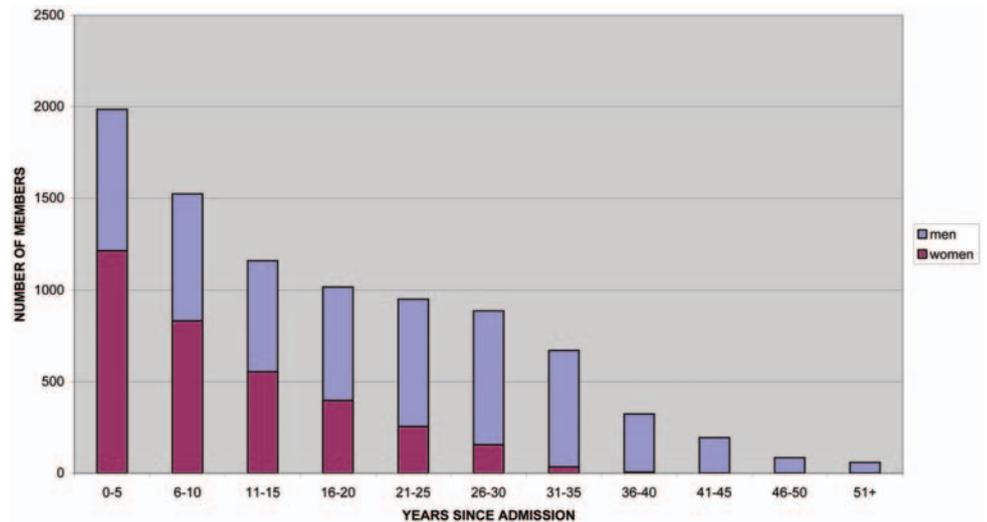


Members by occupation type and gender



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Experience of members by gender



NZLS committee membership

Business



Cameron Fleming

Commercial & Business Law Committee: Cameron Fleming (Convener), Auckland; Gavin Adlam, Wellington; Paul Hartland, Christchurch; Kirk Hope, Wellington; John Horner, Wellington; Steve Nightingale, Wellington.



Ross Johnston

Electronic Commerce Subcommittee: Ross Johnston (Convener), Wellington; Gavin Adlam, Wellington; Clive Elliott, Auckland; Fraser Goldsmith, Dunedin; Peter Leonard, Sydney; Chris Linton, Auckland; Sarah-Jane Weir, Dunedin; Michael Wigley, Wellington; Henry Wolfe, Dunedin.



Paul Sumpter



Clive Elliot

Intellectual Property Working Party: Paul Sumpter (Co-Convener), Auckland; Clive Elliot (Co-Convener), Auckland; Doug Calhoun, Wellington; Susy Frankel, Wellington; John Glengarry, Auckland; Ken Moon, Auckland; Sheana Wheeldon, Auckland.



Stephen Ward

Contract & Consumer Law Reform Committee: Stephen Ward (Convener), Wellington; Bob Dugan, Wellington; Andrew Lawson, Auckland; Rae Nield, Auckland.



Peter Churchman

Employment Law Committee: Peter Churchman (Convener), Wellington; Kathryn Beck, Auckland; Janie Kilkelly, Dunedin; Paul Roth, Dunedin; Michael Sharp, Tauranga; Kerry Smith, Christchurch.



Derek Nolan

Environmental Law Committee: Derek Nolan (Convener), Auckland; John Burns, Auckland; Ann Callaghan, Wellington; Camilla Owen, Nelson; Paul Rogers, Christchurch; Mark von Dadelszen, Hastings.



Scott Barker

Joint Insolvency Committee: *NZLS members:* Scott Barker (Joint Convener from 09/05), Wellington; Michael Webb (Joint Convener to 09/05), Auckland; Peter Barker, Wellington; David Brown, Wellington; Sean Gollin, Auckland (from 09/05); Justice Paul Heath, Auckland; Murray Tingey, Auckland. *NZ Institute of Chartered Accountants members:* Michael Stiassney (Joint Convener), Auckland; Richard Agnew, Auckland; Bruce McCallum, Wellington (from 11/05); David Crichton, Christchurch; Keith Palmer, Wellington (to 11/05); Gary Traveller, Wellington (to 11/05); John Vague, Auckland.

Court-related and legal services



Casey Plunket

Taxation Committee: Casey Plunket (Convener), Auckland; Andrew Beck, Wellington; Bruce Bernacchi, Auckland; Fiona Bolwell, Auckland (*to 09/05*); Brendan Brown, Wellington; Craig Elliffe, Auckland; Marian Hinde, Auckland; David McLay, Wellington; Neil Russ, Auckland; Stephen Tomlinson, Christchurch.



Ken Johnston

Civil Litigation & Tribunals Committee: Ken Johnston, (Convener), Wellington; Andrew Beck, Wellington (*co-opted*); Geoff Brodie, Christchurch; David Hurd, Auckland; Christopher Littlewood, Christchurch; Willie Palmer, Christchurch; Ed Wylie QC, Christchurch.



Philip Morgan QC

Criminal Law Committee: Philip Morgan QC (Convener), Hamilton; Rachael Adams, Tauranga; Liz Bulger, Christchurch; Richard Earwaker, Auckland; Fiona Guy Kidd, Wellington (*co-opted from 05/05*); Jonathan Krebs, Napier; Noel Sainsbury, Wellington (*from 05/05*); Tony Shaw, Wellington (*co-opted*); Peter Winter, Auckland (*co-opted to represent Criminal Bar Association*).



John Marshall

Dispute Resolution Committee: John Marshall (Convener), Wellington; Mark Beech, Tauranga; Ferne Bradley, Christchurch; Geoff Sharp, Wellington.



Grant Burston

Evidence Project – Law Commission: Grant Burston (Convener), Wellington; Helen Cull QC, Wellington; Nick Davidson QC, Christchurch; Gary Gotlieb, Auckland (*to 05/05*); Peter Whiteside, Christchurch.



James Wilding

Legal Services Committee: James Wilding (Convener), Christchurch; Sandy Baigent, Wellington (*co-opted from 05/05*); Jenny Beck, Dunedin; Bill Bevan, Porirua (*from 10/05*); Roger Chambers, Auckland; Kathryn Crooks, Wanganui; Gary Gotlieb, Auckland; David More, Dunedin; Nyleen Wood, Rotorua (*to 10/05*).



Lance Rowe

Youth Justice Committee: Lance Rowe, (Convener), Jackie Anderson, Wellington (*from 08/05*); Wanganui; Sonja Cooper, Wellington; Neil Johnstone, Christchurch; Louise Sziranyi, Lower Hutt (*to 08/05*); Geoff Wells, Auckland.

Other



Don Rennie

Accident Compensation Committee: Don Rennie (Convener), Wellington; Hazel Armstrong, Wellington; Alistair Barnett, Wellington (*from 06/05*); Kate Davenport, Auckland (*to 04/04*); Nicola Drayton-Glesti, Wellington; John Miller, Wellington; Phil Schmidt, Auckland.



Wendy Brandon

Biological & Medical Issues Committee: Wendy Brandon (Convener), Wellington; Marie Bismark, Wellington; Warren Brookbanks, Auckland; David Collins QC, Wellington; Philippa Cunningham, Auckland; Alison Douglass, Wellington; Nicolette Levy, Wellington.



Bernard Banks

Human Rights Committee: Bernard Banks (Convener), Wellington; Andrew Butler, Wellington; Stuart Dalzell, Wellington; Karun Lakshman, Wellington; Helen McQueen, Wellington; Jane Meares, Wellington; Marilyn Wallace, Wellington.



Paul Rishworth

Legislation Committee: Paul Rishworth (Convener), Auckland; Joanne Appleyard, Christchurch; Janine Bonifant, Nelson; Karen Clark, Wellington; David Cochrane, Wellington; Rachel Dunningham, Christchurch; Geoffrey Fuller, Wellington; David Jones QC, Auckland; Alastair Logan, Dunedin; Kristina Muller, Auckland; Chris Tennet, Tauranga.

Regulatory services



Kevin Kilgour

Admissions & Credentials Committee: Kevin Kilgour (Convener), Auckland; Andrew Butler, Wellington; Colin Eason, Christchurch; Allen Mazengarb, New Plymouth; Sally Mountfort, Christchurch (*NZ Institute of Legal Executives, co-opted*).



Nicholas Till

Ethics Committee: Nicholas Till (Convener), Christchurch; Helen Cull QC, Wellington; Christine French, Invercargill; Andrew Gilchrist, Auckland; Lisa Hansen, Wellington; Lindsay Lloyd, Christchurch; Duncan Webb, Christchurch.



Bruce Davidson

Joint Audit Board: *NZLS members:* Bruce Davidson (Convener), Auckland; David Murphy, Wellington; Richard Perry, Wellington. *NZ Institute of Chartered Accountants members:* Bill Heritage, Auckland; Brent Kennerley, Wellington; Simon Lee, Wellington; Peter Schumacher, Wellington.

Associate Membership Applications Committee and Section 97A Committee: Kerry Ayers, Christchurch; Stephen Bryers, Auckland; John Marshall, Wellington; Stuart Webster, Napier (*all NZLS Vice-Presidents*).

Report from the Secretariat

Law reform

This report gives a general overview of the activities of the NZLS sections, committees and groups. Details have already been covered in *LawTalk* and other publications, but further information is available to members on request.

The **Legislation Committee** takes primary responsibility for assisting with law reform by checking all bills introduced to Parliament and preparing submissions on them as appropriate, often assisted by comments from other NZLS specialist committees. In 2005, the NZLS filed submissions on 19 bills. Once no longer under privilege to the relevant select committee, the society's submissions are posted on its website at www.lawyers.org.nz/hmsubmissions.asp. Other law reform work is detailed below.

Significant reform has occurred in the criminal law area resulting from the Crimes Amendment Act 2005 (No.2) and the Prisoners' and Victims' Claims Act 2005. The latter was enacted under urgency, despite the society's opposition to the bill. The **Criminal Law Committee** provided comment to the **Legislation Committee** on these bills and members appeared before the relevant select committees. The **Criminal Law Committee** also commented on the Terrorism Suppression Amendment Bill (No.2), the Evidence Bill, the Criminal Procedure Bill and the Legal Services Amendment Bill (No.2).

The **Youth Justice Committee** and the **Family Law Section** helped develop the society's submissions on the Children, Young Persons and their Families Amendment Bill (No.4), and Child, Youth & Family consulted the former committee after changes were made to the bill at the select committee stage.

Casey Plunket presented the **Taxation Committee's** submissions on the Taxation (Depreciation, Payment Dates Alignment, FBT and Miscellaneous Provisions) Bill to the Finance & Expenditure Committee. The **Taxation Committee** continues its huge task of commenting on proposals for the on-going rewrite of the Income Tax Act.

Comprehensive submissions were prepared by working groups of the **Property Law Section** established to respond to the review of the Unit Titles and Residential Tenancies Acts. John Harkness, Convener of the Unit Titles Working Group, is the section's representative on the Department of Building & Housing's Unit Titles External Reference Group. That group has been formed to advise the department so that it can refine its policy in an area where new legislation is long overdue.

The **Women's Consultative Group** provided comments to the lead NZLS committees, from a gender perspective, on the Evidence Bill, the Legal Services Amendment (No.2) Bill and the Employment Relations (Flexible Working Hours) Amendment Bill.

Following the provision of draft submissions to the **Legislation Committee** on the Resource Management and Electricity Legislation Amendment Bill, **Environmental Law Committee** member Mark von Dadelszen appeared before the Local Government & Environment Committee and the committee provided further submissions on clauses 74 and 75 of the bill. Many of the society's submissions were accepted.

Comments on the Judicature Amendment Bill (No.3) concerning the delivery of judgments in the Court of Appeal and appeals from that court to the Supreme Court were made by the **Civil Litigation & Tribunals Committee** to the **Legislation Committee**.

The **Family Law Section (FLS)** contributed to the society's submissions on the Evidence Bill and the Legal Services Amendment Bill (No.2), where the lead committee was the **Legal Services Committee**. Last year, that committee worked extensively with the Ministry of Justice on the policy of the bill and this year, it prepared the NZLS submissions. The **Human Rights Committee** checked to see that the changes proposed to eligibility for criminal aid were compatible with both the NZ Bill of Rights Act and the International Covenant on Civil and Political Rights.

The **FLS Executive Committee** also completed its consultation with all section members on whether there should be a change to s59 of the Crimes Act, which allows a parent to use justified force to correct a child. The majority of members who responded, favoured amendment, as does the Executive Committee. The section is presently preparing submissions on this basis in response to a private member's bill (Sue Bradford, Green Party) that aims to repeal s59 rather than amend it. The **Criminal Law** and **Human Rights Committees** provided comments to the section on the bill.

The **Accident Compensation Committee** was involved in the implementation of changes arising out of amendments to the ACC legislation covering medical misadventure. It is seeking to be involved in a review of compensation for seasonal workers.

Criminal law

The **Youth Justice Committee** made a submission to the Ministry of Justice for an increase in Youth Advocate remuneration rates, which were last increased in March 1998. In fact, one of the initial reasons for the committee's establishment was to assist then Principal Youth Court Judge Carruthers with a practice note relating to remuneration rates. The committee supported a **Family Law Section** call for an increase in rates for Lawyer for the Child and argued that the two roles should be remunerated at the same rates. The **Youth Justice Committee** has also worked with Principal Youth Court Judge Becroft on an updated appointment and review protocol for Youth Advocates.

One of the biggest projects for the year involved responding to Law Commission Report 89 *Criminal Pre-Trial Processes: Justice Through Efficiency*. The Ministry of Justice convened a series of workshops, involving the profession, Police Prosecutions Service, Legal Services Agency and court registry staff. A number of members of the profession briefed by the **Criminal Law Committee** attended these workshops to represent the society. Notes from the workshops have been collated into the Ministry's advice to the Minister of Justice for the Government's response to the Law Commission on the report.

Some Wellington-based practitioners, under the supervision of the **Criminal Law Committee**, have established a regular dialogue with the new Parole Board Chair, Judge Carruthers, to discuss impediments to representation that prisoners face and difficulties faced by lawyers who undertake the work. The dialogue has already resulted in a schedule of Parole Board hearings being published on the NZLS website, and a supplementary submission on the Legal Services Amendment Bill (No.2) to clarify the position with regard to availability of legal aid for Parole Board matters.

Legal aid

For the **Legal Services Committee**, the year was dominated by legal aid remuneration rates. A paper on *Equality of Arms*, examining the differential between Crown and legal aid remuneration rates, was finalised in September and the results of the 2003 *Survey of Listed Providers of Family and Criminal Legal Aid* were updated. In December, a letter was sent to the new Minister of Justice presenting a case for a review of legal aid rates. Subsequent media reports suggest that some traction has been gained.

The Legal Services Amendment Bill (No.2) submissions, mentioned above, were finalised following extensive input from the **Legal Services Committee**. If enacted, the amendments will significantly raise financial eligibility thresholds, making more people eligible for legal aid. The society argued, and the Justice & Electoral Committee appeared to accept, that this would be meaningless without sufficient will among the profession to offer legally-aided services. Remuneration rates are a key factor in this equation.

The **Accident Compensation Committee** reviewed an ACC education kit prepared for the Legal Services Agency for use in community law centres, citizens advice bureaux and other community advice groups.

The **Legal Services Committee** has also been actively engaged with the Legal Services Agency in the development of policy on remuneration for time spent waiting at court, policy on dealing with complaints against providers, suspension of providers, a proposal for a global granting system for family legal aid, the availability of grants of legal aid to prepare LARP reviews and the review of the LSAs granting steps for civil legal aid. The **Accident Compensation Committee** and the **Legal Services Committee** jointly prepared a submission to the LSA seeking an immediate review of the time remunerated for various steps in ACC appeals and reviews to recognise the realities of practice. After agreeing to a two-step process – a “quick fix” and then a more thorough review – the LSA has said that its first set of changes is enough. The committees do not accept that position and are revisiting the issue with the LSA.

Both the **Criminal Law** and **Legal Services Committees** continue to monitor the progress of the Public Defence Service pilot, operating primarily at the Auckland and Manukau District Courts. Auckland practitioners have raised issues with regard to the categorisation of PDS staff, and the committees are concerned to see that the pilot project operates within the LSAs guidelines, so that safe conclusions can be drawn.

Courts and judiciary

The **Civil Litigation & Tribunals Committee (CLTC)** provided comments to the Rules Committee on its consultation paper on District Courts claims and then on the draft rules arising. Issues addressed included pre-court process, discovery, service, pre-trial and trial procedures, summary judgment and counterclaims. It also made submissions to the Rules Committee on the recovery rates for District Courts costs, proposing that they be set at 80% of the High Court scale. Later in the year, it successfully urged a review of the latter scale based upon the movement in the Consumer Price Index.

Together with the **Commercial & Business Law Committee**, the CLTC made comments to the Ministry of Justice on a draft Hague convention on exclusive choice of court agreements.

The CLTC has also been working on a position paper identifying the issues surrounding confidentiality of appeals from arbitral awards. It is aiming to reach a balance between the advantages of confidentiality and those of open justice, and the benefits that flow from having the High Court hear the appeals.

And it took the lead in providing comments responding to proposals from the Ministry of Justice and the Australian Attorney-General's Department for some harmonisation of enforcement of civil judgments, and particularly Trans-Tasman enforcement. The **Family Law Section** was also involved in making comments on this issue and in turn received those of the CLTC on a suggestion that the jurisdiction of the Family Courts might be expanded to include the ability to punish contempt outside the courtroom.

The CLTC is represented on two groups that meet regularly to examine process and procedure in the higher courts. The first is the Ministry of Justice's Higher Courts Management Group made up of the registrars from the main High Court registries and those of the Court of Appeal and Supreme Court as well as head office staff. The second is the Chief High Court Judge's inter-agency meeting. Both are valuable for the early identification and solving of practice and procedural problems.

The **Family Law Section** has continued its regular meetings with Principal Family Court Judge Peter Boshier. Among other things, this has enabled considerable progress to be made with implementation of changes introduced by the Care of Children Act, which commenced on 1 July 2005. This included up-dating and amending Family Court processes, rules, regulations and practice notes. Amendments to the practice note that contains the code of practice for Lawyer for the Child is a joint effort and is still a work in progress.

The section is a national body and generally confines itself to national issues but occasionally it is appropriate for its Executive Committee to look at a regional issue and this is generally done alongside the relevant district law society. A number of Family Courts suffer from insufficient resources at times: 2005 was a particularly difficult year in South Auckland and practitioners (and therefore their clients) using the Manukau Family Court felt the effects of staff turnovers or shortages and insufficient judge time. Members' concern was such that the Executive Committee co-opted a local practitioner to work with the Auckland District Law Society, the Ministry of Justice and the judiciary on identifying and implementing solutions. Progress has been made in addressing the issues and the situation will be monitored.

The **Accident Compensation Committee** met members of the District Courts Tribunals Division to discuss modifications to correspondence that division sends to practitioners regarding appeals in accident compensation cases. The committee also met the chair and the general manager of Dispute Resolution Services Limited and discussed issues surrounding remedies for reviewer mistakes, issues with the review procedure, adjournment guidelines and the concern of low representation at review hearings, particularly in Auckland.

The **Environmental Law Committee** continues to meet the Principal Environment Judge and the Environment Court registrar to discuss practice and procedure. It has provided comment on a draft consolidation of the three practice notes applying in that court. The committee commented on a paper prepared for the Ministry for the Environment on costs in the Environment Court and the possibility of a scale. It has urged the Minister for Courts to delay any implementation of the increased Environment Court fees announced last year as there are too many potential anomalies in what is proposed.

Business law

The **Commercial & Business Law Committee** prepared several sets of comments/submissions. They included comment on proposals to enable the Commerce Commission to share information with other domestic and overseas fair trading regulators, the Financial Intermediaries Task Force consultation paper *Options for Change* (with input from the **Contract & Consumer Law Reform Committee**), the Review of the Memorandum of Understanding between New Zealand and Australia on coordination of business law, technical amendments to the Takeovers Code and an exposure draft of the amended NZX Listing Rules. The committee also continues to assist the Ministry of Economic Development (MED) with its review of financial products and providers.

The **Intellectual Property Working Party** reviewed intellectual property material released for consultation and prepared comments on the draft Plant Variety Rights Bill.

The **Contract & Consumer Law Reform Committee** made submissions to the Banking Ombudsman on the terms of reference for the independent review of the Banking Ombudsman scheme. It also made comments to the Ministry of Consumer Affairs on the review of the operation of the Motor Vehicle Sales Act 2003.

The **Electronic Commerce Subcommittee** continued to monitor developments in e-commerce law, and commented on the policy that lies behind the Unsolicited Electronic Messages Bill. Together with the **Disputes Resolution Committee**, it made comments to the Domain Name Commissioner on .nz domain name dispute resolution policy and process.

Liaison with the MED over the ongoing insolvency review came under the ambit of the **Joint Insolvency Committee**, which comprises both NZLS and NZ Institute of Chartered Accountants members. It is also preparing submissions on the Insolvency Law Reform Bill, which was introduced into the House in December 2005 but has yet to have its first reading.

The **Taxation Committee** prepared many sets of comments on tax-related issues. These included those on the exposure drafts of parts G, H, F, K and L of the Income Tax Act, and a number of IRD draft interpretation statements and other exposure drafts.

Human rights

International

12 Women lawyers



Elisabeth McDonald

The **Environmental Law Committee** made comments to the Ministry for the Environment on the proposed National Environmental Standard for human drinking water sources and a discussion paper on fresh water management.

An updated clause developed by the **Property Law Section's Rural Transactions Technical Committee** has proved very popular. An alteration to Fonterra's capital structure meant that lawyers had to come to grips with some complex changes. The CLE rural intensive seminar held in Hamilton and Christchurch was well attended and provided a great forum for property lawyers to debate issues affecting their rural clients. The section has established a good relationship with Fonterra and assists in disseminating its share registry forms via its website, www.propertylawyers.org.nz.

The **Human Rights Committee** held very useful discussions with representatives of the Human Rights Commission on the commission's Action Plan for Human Rights in New Zealand. The committee maintains a liaison with the Human Rights Network Trust. It is concerned at what appears to be uneven access to legal services for vulnerable people who are refugees, overstayers, applicants for immigration permits and those detained under the Immigration Act. It is seeking more information from district law societies and has met representatives of community law centres about this.

The **Accident Compensation Committee** contributed to an independent review of the Code of Claimants' Rights and raised concern over administration of the code and the apparent inadequacy of remedies for breaches. It made a submission to the ACC on proposed changes to the cost of treatment regulations and urged the corporation to comply with International Labour Organisation Convention 17, which states that employees should not bear the treatment costs of work-related injuries. The committee is represented on an ACC advisory group assisting in the evaluation of two pilot schemes designed to assist claimants having difficulties when dealing with ACC and its staff.

While the International Committee was discontinued as from April 2005, international contacts are maintained, particularly at presidential level and through membership of the International Bar Association, the Commonwealth Lawyers Association and LAWASIA, including attendance at their conferences and at the POLA Conference.

Women's Consultative Group (reconstituted from 10/05): Elisabeth McDonald (Co-Convener to 10/05 and then Convener from 10/05), Wellington; Vicki Thorpe (Co-Convener), Gisborne (to 10/05); Sandra Alofivae, Manukau (to 10/05); Amy Adams, Christchurch (from 10/05); Donna Buckingham, Dunedin (from 10/05); Rachael Dewar, Wellington (from 10/05); Sandra Heney, Nelson (whole year); Anne Hinton QC, Auckland (from 10/05); Heather MacColl, Hamilton (from 10/05); Anne McMurtrie, Christchurch (to 10/05); Natalie Palmer, Hamilton (from 10/05); Usha Patel, Auckland (to 10/05); Jacinta Ruru, Dunedin (to 10/05).

Change was the order of the day for the **Women's Consultative Group (WCG)** in 2005. In July, the NZLS Board adopted a paper put forward by the group addressing the nature of its membership. Previously, members were nominated by women lawyers associations and Te Hunga Roia (Maori Lawyers Society) or were co-opted for their particular expertise. The paper adopted by the board brought the membership process into line with that for NZLS special committees, whose members are appointed annually by the board. The first appointments were made in October with the new look WCG including two existing members and six new members. The next appointment round will occur in April, to bring it in sync with other annual appointments.

The WCG surveyed the profession to gather quantitative information on the issues that women in practice face. Both male and female practitioners were surveyed to gauge which issues appeared to be gender related and which were more general, affecting the profession at large. The information from the survey has been used to focus the WCG work plan for 2006 and the results were reported in *LawTalk* and are available through the group's webpage at www.lawyers.org.nz/wcg/statistics.asp.

The first draft of the NGO report to the UN Monitoring Committee on the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) contained comments from the group. They focused on legal aid and civil court fees, which had been the subject of two recommendations made to the Government by the UN following input by the WCG into the 2002 NGO report. The finalised report will be sent to the UN in early 2006.

The group assisted with discussion on the development of a national women lawyers association (NWLA) and provided funding for the first meeting of the NWLA steering group in 2005.

The WCG also developed a paper advancing the case for an increase of the tax rebate available for working parents paying for childcare, to be submitted to the Government in 2006.

A resource, *Going Solo*, providing advice for practitioners setting up in sole practice, was published and updated. It is posted on the WCG webpage (see above), which was completely redesigned in 2005 to make it more informative and easier to use.

Sections

Corporate Lawyers Association of New Zealand (CLANZ)



Nicolas Short

The NZLS has three specialist sections that enable practitioners in particular fields of practice to share knowledge and promote their interests.

Committee: Nicolas Short (President), Auckland; Philip Griffiths (Vice-President), Auckland; Genevieve Hancock (Vice-President), Wellington; Hamish Woods, (Secretary), Wellington; Rob Wells (Treasurer), Wellington; James Radcliffe (Communications Director), Auckland; Helen Mackay (2006 Conference Convener), Wellington; Ron Pol (Immediate Past President), Wellington; Cathryn Bridge, Wellington; Peter Doolin, Christchurch; David Dunbar, Wellington; Annelies McClure, Wellington; Bianca Miller, Auckland; Sarah Ongley, Auckland; Jennie Vickers, Auckland; Lloyd Wong, Auckland.

The CLANZ mission is "Leading, Supporting, Networking". CLANZ serves the interests of people who work as in-house lawyers in corporates, government departments, local authorities and other business and non-profit organisations – some 1,500 people New Zealand wide. Given the geographical spread of members and the diverse range of issues they face, it is critical for CLANZ to facilitate opportunities for members to communicate with each other and share their experiences and expertise. The main media for generating such opportunities are: the quarterly magazine, *Corporate Lawyer*; the email bulletin *E-clanz*; the website www.clanz.org and various educational and social events in Wellington, Auckland and Christchurch.

The key gathering is the annual conference and in 2005, with considerable assistance from the association's principal sponsor Bell Gully, CLANZ held another successful conference in Napier, with a particular social highlight being a very successful cocktail party held in the National Aquarium, the first time this venue had ever been used for such an event. Equally successful were the business sessions, with the conference committee having provided a programme under the theme "leadership, learning, life" that drew a "house full" attendance.

Awards made at the conference were:

CLANZ-Lexis Nexis Corporate Lawyer of the Year: Paul Gillard, Tenon Ltd;

CLANZ-Bell Bully Young Corporate Lawyer of the Year: Carolyn Mason-Mortland, Fonterra;

CLANZ-Wigley & Co Community Contribution: Brent McAnulty, Telecom, and Louise McKenzie, Capital Coast Health.

Also of significance in 2005 was the introduction of a range of surveys that allow CLANZ to remain aware of the needs of its membership and the challenges and issues they face. These were undertaken in conjunction with Team Factors Ltd and resulted in the following reports:

- *The Annual In-house Counsel Salary Survey Report* – (this also involved the assistance of Hughes-Castell);
- *The Profile of the In-house Profession Report* – commenting on relevant work-related demographic information on in-house lawyers;
- *The Members' Survey Report* – focusing on members' needs with respect to CLANZ;
- *The In-house Counsel Report* – concentrating on legal department management, use of outside counsel and use of technology.

Family Law Section (FLS)



Simon Maude

Executive Committee: Simon Maude (Chair), Wellington; Barbara Collis (Deputy Chair), Opotiki; Jeremy Daley (Treasurer), Christchurch; Toni Brown, Alexandra; Bridget Burke, New Plymouth (*co-opted*); Justeen Davies, Manukau City (*co-opted*); Murray Earl, Hamilton (*co-opted as Editor*, *The Family Advocate*); Simon Jefferson, Auckland; Fiona Mackenzie, Tauranga; Paul Maskell, Manukau City (*co-opted*); Usha Patel, Auckland; Anne Stevens, Dunedin (*President's nominee*); Nicola Williams, Dunedin.

Considerable work was done by this section's Executive Committee and its standing committees in 2005.

Membership continues to increase and at the year's end was over 800. The Executive Committee is ever mindful of the need for effective communication both ways, between it and members. Methods of communication include the section's quarterly journal, *The Family Advocate*, regular reports in *LawTalk* and the chair's monthly email bulletin. The Executive Committee members and the section's regional representatives liaise regularly with their district law society family law committees. The regional representatives, whose role becomes more vital each year, have worked particularly hard, including attending an all-day planning meeting to clarify their role, to enthuse them in their tasks and to share their successes.

The Family Law Conference held in Wellington was a success. The section is in its second year as a stakeholder in the NZLS Continuing Legal Education entity and this was the

Property Law Section (PLS)



Chris Moore

first family law conference held since the section has taken part in CLE in this way. The conference attendees were provided with sessions on the usual comprehensive range of subjects presented by experienced and interesting speakers.

Executive committee and section members continue to be appointed to the District Court bench. Judge David Burns, who was section chair for three years, now sits in the Auckland Family Court. The section is equally proud of the following members who, in the last 12 months, have been elevated to the bench: Dominic Flatley, Greg Hikaka, Ian McHardy, Margaret Rogers, Emma Smith, Jan Walker and Rosemary Riddell.

Government agencies, including the Legal Services Agency, consulted the section about various projects. The FLS worked with both the Ministry of Justice and the LSA on a family mediation pilot taking place in four Family Courts. Of considerable significance is the section's case, submitted to the Ministry of Justice in December, calling for a 27% increase in rates of remuneration for Lawyer for the Child. The NZLS Youth Justice Committee simultaneously submitted a case for the same increase for Youth Advocates, while the NZLS called for an increase in legal aid rates generally.

Media interest in the Family Court has been steady. In late June, the Executive Committee held media briefings in Auckland and Wellington to educate journalists about the Care of Children Act ahead of them being able to report cases in the Family Courts. Subsequently, Chair Simon Maude and other Executive Committee members have spent considerable time speaking to reporters, in the process raising the section's profile and informing the public about these matters.

Executive Committee: Chris Moore (Chair), Auckland; Margaret Wellwood (Deputy Chair), Hastings; Andrew Logan (Treasurer), Christchurch; Ferne Bradley, Christchurch; Richard Cross, Napier; Nola Dangen, Auckland; Barry Gunson, Hamilton; Ian Haynes, Auckland (*President's Nominee*); Lindsay Lloyd, Christchurch; Philip Shannon, Wellington.

Chris Moore served his third year as chair of the section. Its profile continues to grow under his sound guidance and leadership. A dedicated Executive Committee and hard-working technical committees assist him.

This year saw the section realise its long anticipated firm membership proposal. With members wanting to incorporate the PLS logo into their own firm branding, the Executive Committee developed a corporate identity and new logo that property lawyers can use to distinguish themselves as members of a group specialising in property law. The section's previous logo was inappropriate for this purpose. At the end of the year, 43 firms had chosen to identify themselves with the section through use of the member firm logo.

In 2005, 1,264 property lawyers registered as members. Fees were increased for the first time since the section's establishment, justified by additional media advertising, a nationwide Yellow Pages campaign and an 0800 number to assist the public with finding a property lawyer, as well as the rebranding that took place as part of the firm membership campaign.

The push to encourage the uptake of *e-dealing* continued, with endorsement from the NZLS Board. In January, Christchurch property lawyer, Duncan Terris, commenced his part-time appointment as NZLS *e-dealing* consultant to assist the profession and its staff adopt and adapt to *e-dealing*. The appointment complements LINZ's *e-dealing* support services by providing advice and assistance with the conveyancing and practical property law issues that sit alongside *e-dealing*. In anticipation of mandatory use of Landonline, a strong message was communicated to the profession encouraging firms to sign up and make use of LINZ's free training thereby ensuring their preparedness ahead of the formal announcement (made in February 2006) that Landonline would become compulsory from 1 July 2008.

The section built on its relationship with some of the larger trading banks and reinforced with them the importance of certainty and irrevocability for settlement payments. Three of these banks now offer tailored electronic banking facilities developed specifically for solicitors. The section had input into all of the terms and conditions or protocols governing these. At members' requests, it has also successfully lobbied for amendments to loan documentation and solicitors' certificates. Work in this area will continue during 2006. There are more developments in the pipeline, particularly where banking and *e-dealing* overlap.

Email bulletins sent from time to time during the year kept members up to date with important developments, such as how to establish proof of client identity in the absence of photo ID. The section's quarterly publication, *The Property Lawyer*, also helped the section to achieve one of its primary aims: ensuring that its members are educated and up-to-date property lawyers.

Continuing legal education (CLE)



Christine Grice



The 20th Litigation Skills Programme, directed by Anne Stevens, was a major milestone.

Board: Christine Grice (Chair), Hamilton; Annette Black (*NZLS Executive Director's Nominee*), Wellington; Anita Chan, Dunedin; Tim Jones, Auckland (*to 02/06*); Andrew Logan, Christchurch (*from 02/06*); Andrew Skelton, Wellington. *Non-voting members:* Associate Justice Gendall, Wellington; David Goddard QC, Wellington (*to 07/05*); Julie Maxton, Auckland (*to 11/05*); Paul Rishworth, Auckland (*from 02/06*); Judge Walker, Wellington.

2005 was a year of change for CLE with the retirement of Annette Black from her long-held position as Director. Annette founded the modern CLE programme for NZLS 22 years ago and it is largely due to her that the programme has, since its inception, provided timely, high quality legal education for the profession. Annette remains a member of the CLE Board.

Charlotte Cullen took up her appointment as Annette's successor in May and is looking forward to the challenge of ensuring the programme remains at the forefront in the provision of the high quality, useful continuing legal education for New Zealand lawyers.

During the year, 9,535 registrants completed more than 60,000 hours of CLE at 180 venues around New Zealand. Some 45% of the profession attended one or more of the 22 standard seminars, seven conferences or intensives, six entry-level programmes, five workshops and two advocacy programmes on offer.

Overall, this 2005 programme was very well received with almost all courses at least meeting, and frequently exceeding, participants' expectations. There were many highlights during the year, including a major milestone for the Litigation Skills Programme, which celebrated its 20th anniversary. The Trusts Conference was again a big success with almost 500 practitioners attending in either Wellington or Auckland.

The biennial Family Law Conference, jointly presented by CLE and the Family Law Section (which, along with the Property Law Section, is a CLE stakeholder) was very popular with its 365 attendees. While many different facets of family law practice were examined over the two days, in particular the forum saw many interesting discussions and debates around the changes being experienced in this area due to the Care of Children Act 2004, which came into force on 1 July 2005.

In 2005, for the first time, CLE presented a two-day intensive focused on the rural sector. This was extremely well received by registrants in both Hamilton and Christchurch, who appreciated the opportunity to examine the types of issues encountered by lawyers practising in this sector.

Also a first this year, was the Waitangi Tribunal Conference, chaired by Chief Judge Joe Williams. CLE was pleased to be able to offer a forum in which those involved in the Treaty settlement process, whether as counsel, witness, official or negotiator, could discuss and debate the professional issues confronting the sector.

The dissolution of the NZLS Legal Executives Committee in 2005 saw the NZLS Legal Executive Course come under the direction of the CLE Board. Currently, eight teaching institutes around the country offer either face-to-face or extramural tuition in this course, which comprises six full-year papers. NZLS then offers students national examinations in each paper annually. In 2005, examinations were held in 28 centres nationally and six centres overseas. The course continues to cater for large numbers of legal executives with 866 candidates sitting 1,466 examinations last year. The average pass rate per examination paper was 85% and 150 students will graduate from the course this year.

Communications



Over half the titles in the 17-pamphlet NZLS Law Awareness series were revised during the year, mainly to reflect changes in family law matters, with the assistance of experts in the various areas. Their help is much appreciated. The series continues to prove very useful to law firms, which purchase the pamphlets to support marketing initiatives and as a service to clients, and with the public, who can get free copies through citizens advice bureaux, community law centres, law societies or via the NZLS website (www.lawyers.org.nz/pubaboutlaw.asp). In 2005, over 69,000 were sold to lawyers and over 58,000 given to the public.

LawTalk again performed strongly as the main means of communication with members, complemented by the website (www.lawyers.org.nz), which is increasingly used to provide more detailed information. Against market trends for other publications, *LawTalk* has retained a high level of advertising, with a tight employment market again driving up recruitment advertising for jobs within New Zealand and overseas. *LawTalk* showed an overall surplus of \$300,000 (\$313,000 in 2004) for the year, before indirect costs are taken into account.

On the media front, society spokespeople, as usual, gave generously of their time to provide informed comment and answer inquiries, often at unsociable hours. The Family Law Section held very successful media briefings in Auckland and Wellington to educate the media about the new Care of Children Act in preparation for their role of being able to report cases in the Family Courts.

Regulatory services

The Regulatory Services Department is responsible for delivering a range of regulatory functions aimed at maintaining standards within the profession. These include promoting and encouraging proper conduct among members, suppressing illegal, dishonourable or improper practices, and preserving and maintaining the integrity and status of the profession. In the course of this work, the department maintains a close liaison with district societies and, where appropriate, regulatory authorities in other jurisdictions, particularly our Australian counterparts.

The department provides assistance to practitioners, responding to numerous inquiries on ethical, general practice, trust accounting and other regulatory issues. While society staff do not provide legal advice, practitioners are directed to the appropriate resources, including the website, which features an extensive range of regulatory information. From time to time, the department seeks specialist legal advice, which it will make available to district law societies and members as appropriate where the matter is of general application.

The **Admissions & Credentials Committee** considered 87 applications from overseas practitioners seeking admission in New Zealand, up from 71 applications the previous year. The highest number was from the UK (31), followed by the USA (10). The society's staff responded to more than 400 admissions-related inquiries, in addition to the work carried out in respect of active applications. The committee dealt with seven applications for review. One matter was referred to the NZLS Board for consideration and the committee's decision was confirmed.

In the year to 30 November, 222 applications for certificates of standing were processed.

The **Ethics Committee** recommended, and the NZLS Council approved, amendments to commentaries (1) and (3) to rule 7.03, which deal with payment to expert witnesses where payment is by legal aid (see *LawTalk* 657, 14 November 2005).

The committee also provided two rulings. The first, "Obligation to report improper acts by practitioner. Client confidence – legal advice privilege", analysed the conflicting obligations imposed by rules 6.03 and 1.08. This ruling, and a related article - "Client privilege overrides obligation to report improper acts by practitioners" - were published in *LawTalk* 645, 16 May 2005. The second ruling concerned rule 1.08 and analysed the rights and duties of a practitioner who had unwittingly been a conduit for an overpayment to a client who was not entitled to the money and refused to repay it (see *LawTalk* 660, 13 February 2006).

An article, "Practitioners and media comments – beware the law of contempt", informed practitioners of their obligations when making public statements on pending cases in which they are involved (see *LawTalk* 648, 4 July 2005).

The **Ethics Committee** also considered, with reference to rules 2.01 and 2.02, concern raised regarding a firm's marketing procedures, and the extent to which practitioners are, or should be, obligated to advise clients regarding alternatives to dispute resolution.

In 2005, the **Inspectorate**, whose work is overseen by the **Joint Audit Board**, made 387 visits (426 in 2004) comprising 53 (39) new practice inspections, 316 (360) inspections and 18 (27) investigations and interventions. Contracted accounting firms undertook an additional 127 compliance reviews.

The seminar series for previously exempt trust account partners and the equivalent sessions in the full Trust Account Partner course were attended by 824 practitioners. An estimated six remained non-compliant at the year end and were referred to district law societies.

Attendance at the full Trust Account Partner course was 111 (2004 – 110).

Inspectors also assisted district law societies with their Flying Start programmes.

On the recommendation of the NZLS Board, the NZLS Council adopted, with effect from 1 June 2005, Financial Assurance Scheme Disclosure of Information Rules to assist the proper flow of information between district law societies and the NZLS in the context of the society's Financial Assurance Scheme.

Other regulatory matters dealt with related to lawyers' current obligations to report suspicious transactions under the Financial Transactions Reporting Act. The NZ Police Financial Intelligence Unit issued new guidelines for lawyers - just as the Government announced even tougher anti-money laundering measures to close loopholes in the financial system. The society has been consulting officials on the issues since the release of a discussion paper, and will continue to comment as proposals are advanced, given their likely significant impact on legal practice.

Complaints about lawyers' conduct are investigated by district law societies. Complainants who are not satisfied with the way a district has handled a complaint can refer the matter to a lay observer, who may make recommendations to the district law society. Under s97A of the Law Practitioners Act, a lay observer who is not satisfied with the district's response may request it to refer the report or recommendation to the NZLS for review. Last year, the **Section 97A Committee**, which comprises the society's vice-presidents, completed three such reviews received in 2004 and commenced one received in 2005.

Complaints

New Zealand Law Practitioners Disciplinary Tribunal



John Rowan QC

Report from the Chair

Tribunal members: John Rowan QC (Chair), Wanganui; Peter Radich (Deputy Chair), Blenheim; Dr Bill Black, Nelson (*lay member*); Wayne Chapman, Wellington; Laurence Cooney, Ashburton; Nigel Hampton QC, Christchurch; Anne Hinton QC, Auckland; Judith Medlicott, Dunedin; Jim Rowe, Featherston (*lay member*); Shelley Sage, Auckland; Denis Sheard, Auckland; Allan Spence JP, Auckland (*lay member*); John Upton QC, Wellington; Ben Vanderkolk, Palmerston North; Owen Vaughan, Manukau City.

The tribunal heard 15 matters in the year ended 31 December 2005, which have been reported to the profession in *LawTalk*.

During the year, we sadly farewelled the secretary of the tribunal, Jock Nicolson. A dinner in his honour was held at the Northern Club at Auckland in May attended by tribunal members then sitting in Auckland, and past chairs. Jock's contribution to the NZLS in various capacities, including many years as tribunal secretary, was immense and his knowledge invaluable. The dedication and professionalism he brought to the role is much appreciated by the tribunal and the profession. He has set high standards for the new secretary, Bronwyn Jones, to follow.

While the tribunal sat for only 10 days during the year, a very wide range of work was carried out. Much use of pre-hearing telephone conferences with counsel involving timetabling and directions has, in almost all cases, facilitated short and tightly focused hearings.

The tribunal's work is up to date, although several hearings have been deferred pending the outcome of criminal proceedings. These delays have not put the public at risk for, in almost every case, the practitioners concerned have voluntarily ceased practice.

Tribunal membership has been maintained at its maximum level (12 practitioners and three lay members).

It is not generally appreciated by the profession or the public that the tribunal's lawyer members receive no payment for their work. Members have loyally remained on the tribunal in anticipation of enactment of the lawyers and conveyancers legislation. The profession and public owe them a great debt of gratitude. Further delays in passing the legislation (which will not come into force until the supporting regulatory structure is in place) mean that some members may need to review their positions. A strong case can be made out for an honorarium to be paid to the chair and deputy chair, as the tribunal sits in divisions and they bear the greater burden of reviewing charges and supporting affidavits, authorising prosecutions, conducting pre-hearing conferences and decision making.

The tribunal's work and public acceptance of its decisions has been greatly enhanced by the involvement of its three distinguished lay members. They receive a meagre daily sitting allowance of \$320, which is long overdue for revision by the Tribunals Division of the Ministry of Justice. Their patient approaches for review should receive prompt attention.

I extend my particular thanks to Peter Radich for his willing support in his role as deputy chair. Our newest member, Wayne Chapman, has been a very welcome addition and his contribution has been valuable. I cannot thank the other tribunal members enough for their long service and commitment.

In 2006, the tribunal will need to rely even more on the continued goodwill of its members to deal with what is shaping up to be a busy sitting schedule involving some complex cases.

Detailed reports of decisions relating to practitioners and employees of practitioners who have appeared before the tribunal are published in *LawTalk* during the year so the following is a brief summary only.

Struck off

John Arthur Burrett, barrister & solicitor of Upper Hutt – struck off on 2 March 2005 after being found guilty of charges that his conviction of an offence punishable by imprisonment reflected on his fitness to practise and tended to bring the profession into disrepute; ordered to pay costs of \$3,359.24 to the Wellington District Law Society and \$2,345.16 to the NZLS.

Kurt Peter Reed, barrister & solicitor of Ashburton – struck off on 28 November 2005 after pleading guilty to five charges of misconduct in his professional capacity and to a charge that being convicted of an offence punishable by imprisonment reflected on his fitness to practise and tended to bring the profession into disrepute; ordered to pay costs of \$12,135.15 to the Canterbury District Law Society and \$4,763.65 to the NZLS.

Donald Hugh Simcock, barrister & solicitor of Wellington – struck off on 1 March 2005 after being found guilty of charges that being convicted of an offence punishable

Tribunal decisions

by imprisonment reflected on his fitness to practise and tended to bring the profession into disrepute; ordered to pay costs of \$2,068.90 to the Wellington District Law Society and \$2,750.10 to the NZLS.

Kathryn Louise Webber (Clemm), barrister & solicitor of Auckland – struck off on 6 December 2005 after being found guilty of charges that her conviction of an offence punishable by imprisonment reflected on her fitness to practise and tended to bring the profession into disrepute; ordered to pay costs of \$2,783 to the Auckland District Law Society and \$2,504.81 to the NZLS.

Suspended from practice

David John Batchelor, barrister & solicitor formerly of Dunedin – suspended for three years from 28 November 2005 after admitting misconduct in his professional capacity and after admitting that being convicted of an offence punishable by imprisonment reflected on his fitness to practise as a barrister or solicitor or tended to bring the profession into disrepute. No costs awarded.

Leslie Mark Henley-Smith, barrister & solicitor of Auckland – suspended from practice from 5pm Friday 27 January 2006 to 5pm Friday 31 March 2006 after admitting a charge of misconduct in his professional capacity; ordered that for a period of two years he is to make his practice available for inspection at six-monthly intervals by audit inspectors, and to take advice in relation to the management of his practice, costs of inspections and advice to be met by the practitioner; ordered to pay costs of \$10,000 to the Auckland District Law Society and \$5,679.29 to the NZLS.

John Lewis Mansfield, barrister & solicitor of Auckland – suspended for two years and one month from 23 May 2005 after admitting charges of misconduct in his professional capacity; subject to strict employment conditions, the tribunal sanctioned his employment as a clerk; ordered to pay total compensation of \$3,291.11 (if still owing) to complainants and costs of \$16,592.46 to the Auckland District Law Society and \$6160.50 to the NZLS.

Censured and fined

Peter Robert Dallison, barrister & solicitor of Nelson – censured and fined \$5,000 on one charge of conduct unbecoming a barrister or solicitor; ordered to pay costs of \$5,000 to the Nelson District Law Society and \$3,261.75 to the NZLS.

Stuart Francis Pollard, barrister & solicitor of Auckland – admitted misconduct in his professional capacity; censured and ordered to complete the full Trust Account Partners course and to make his practice available for three-monthly inspections by the Auckland District Law Society for a period of two years; also ordered to pay costs of \$5,656.25 to the Auckland District Law Society and \$2,632.66 to NZLS.

David John Porteous, barrister & solicitor of Hastings – found guilty of professional misconduct and censured and fined a total of \$16,000 on seven charges; ordered to pay costs of \$20,000 to the Hawke's Bay District Law Society and \$10,670 to the NZLS.

Not to be employed

Orders were made under s114 of the Law Practitioners Act 1982 that, as they were guilty of conduct that would render a practitioner liable to being struck off, the following people were not to be employed in connection with a practitioner's practice so long as the orders remain in force.

Rose Akava, former legal employee of Auckland – also ordered to pay costs of \$1,787.88 to the Auckland District Law Society and \$1,530.24 to the NZLS.

Laura Elizabeth Gaston, former law firm employee of Auckland – no costs awarded.

Leanne Julie Mason, former legal executive of Auckland – also ordered to pay costs of \$1,951.50 to the Auckland District Law Society and \$1,848.24 to the NZLS.

Application for practising certificate

Joanne Maree Bain of New Plymouth – the tribunal directed that the Taranaki District Law Society issue Ms Bain with a practising certificate, the district council having referred her application for a certificate to the tribunal.

Application to practise on own account

Practitioner X – the tribunal made an order, subject to strict conditions, authorising him to practise on his own account whether in partnership or otherwise (the tribunal had previously ordered practitioner X not to practise as a solicitor on his own account whether in partnership or otherwise until authorised to do so); ordered to pay costs of \$2,752.81 to the NZLS.

Appeal

William Raymond Harris, barrister & solicitor of Cambridge, who was struck off on 26 November 2003, appealed to the High Court, which, on 22 April 2005, reduced that penalty to one of suspension for 2½ years from 26 November 2003. The Waikato Bay of Plenty District Law Society appealed against the High Court decision on penalty. The Court of Appeal heard that appeal on 28 November 2005 and its reserved decision is awaited.



Peter Whiteside

Management Committee - Solicitors' Fidelity Guarantee Fund: Peter Whiteside (Convener), Christchurch; Mike Chapman, Mt Maunganui; Ted Graham, Tauranga; John Marshall, NZLS Treasurer; David Murphy, Wellington; Sue Styants, Papakura.

The SFGF Committee was pleased to settle a long outstanding claim on the fund, which accounted for 62% of claims paid in 2005. While the contingent liabilities are around the \$4 million mark, which experience suggests is not indicative of the likely cost to the fund, reserves of \$10.6 million provide some level of comfort to the committee that the fund is adequately financed.

Management Committee – NZLS Special Fund: Chris Darlow (Convener), Auckland; John Marshall, Wellington.

General finances



Treasurer
John Marshall

To some extent the society's financial position this year has been enhanced by the delay in passing the Lawyers and Conveyancers Bill, as budgetary provision for the consequent reforms was not taken up. The surplus was also boosted by an increase in revenue-generating activities, particularly a good return from *LawTalk*. Practising fees will, in 2006, continue to be held at the rate set in 2004. This sound financial position enables the society to meet unexpected and large expenditure such as that associated with upgrading the building in 2006, in the main, to comply with fire and health & safety codes.



Statement of accounts

NEW ZEALAND LAW SOCIETY

SUMMARY STATEMENT OF FINANCIAL POSITION

as at 30 November 2005

	2005		2004
	\$000		\$000
Current assets			
Cash and deposits at bank	9,498		7,754
Debtors	<u>713</u>	10,211	<u>602</u>
Fixed assets			
	<u>724</u>		<u>742</u>
Total assets	10,935		9,098
Current liabilities	<u>(895)</u>		<u>(592)</u>
Net assets	<u>10,040</u>		<u>8,506</u>
Represented by:			
General funds	6,908		6,008
Accumulated funds	<u>3,132</u>		<u>2,498</u>
	<u>10,040</u>		<u>8,506</u>

SUMMARY STATEMENT OF CASH FLOWS

for the year ended 30 November 2005

Net cash inflow from operating activities	1,886	1,004
Net cash outflow from investing activities	<u>(142)</u>	<u>(175)</u>
Net increase in cash held	1,744	829
Cash at beginning of year	<u>7,754</u>	<u>6,925</u>
Cash at year end	<u>9,498</u>	<u>7,754</u>

Approved on behalf of the Board as at 17 February 2006.



J L Marshall, Treasurer



ADRitchie, Executive Director

NEW ZEALAND LAW SOCIETY

SUMMARY STATEMENT OF FINANCIAL PERFORMANCE

for the year ended 30 November 2005

	2005	2004
	\$000	\$000
General Operating Account		
Operating revenue		
Practising and membership fees	4,689	4,531
LawTalk	599	619
Interest	653	449
Service fees and other	<u>631</u>	<u>656</u>
	<u>6,572</u>	<u>6,255</u>
Operating expenses		
Administration	3,883	3,764
Committees	266	346
LawTalk - direct expenses	299	306
Information	157	110
Disciplinary - after recoveries	<u>3</u>	<u>274</u>
	<u>4,608</u>	<u>4,800</u>
Operating surplus before income tax	1,964	1,455
Income tax expense	<u>(211)</u>	<u>(173)</u>
Net surplus transferred to accumulated funds	<u>1,753</u>	<u>1,282</u>
Building Operating Account		
Operating revenue	26	49
Operating expenses	<u>245</u>	<u>204</u>
Operating deficit	<u>(219)</u>	<u>(155)</u>
Accumulated funds		
Opening balance	2,498	2,071
Less: Transfer to general fund	(900)	(700)
Less: Deficit from building operating account	(219)	(155)
Plus: Surplus from statement of financial performance	<u>1,753</u>	<u>1,282</u>
Closing balance	<u>3,132</u>	<u>2,498</u>
General Funds		
Opening balance	6,008	5,308
Plus: Transfer in	900	700
Closing balance	<u>6,908</u>	<u>6,008</u>

The financial reporting summaries have been taken from the audited full financial reports of the New Zealand Law Society, Continuing Legal Education, the Centennial Maori Scholarship Fund, the Centennial Scholarship Fund, the Cleary Memorial Prize Fund, the Legal Conference Fund, the Inspectorate and the Solicitors Fidelity Guarantee Fund for the year ended 30 November 2005 for which an unqualified audit opinion was issued on 17 February 2006. The audited financial reports were authorised for issue by the Board on 17 February 2006. These financial reporting summaries cannot be expected to provide as complete an understanding as provided by the full financial report of the financial performance, financial position and cash flows (where applicable) of the financial reports referred to above. The full financial reports are available at www.lawyers.org.nz/memaboutus.asp or as a hard copy on request.

Statement of accounts

SOLICITORS' FIDELITY GUARANTEE FUND

Part A

SUMMARY STATEMENT OF FINANCIAL POSITION as at 30 November 2005

	2005 \$000	2004 \$000
Opening balance	6,112	5,730
Revenue	-	441
Expenses – transfer to Part B	<u>(6,112)</u>	<u>(59)</u>
Closing balance	<u>—</u>	<u>6,112</u>
Represented by:		
Current assets	<u>—</u>	<u>6,112</u>
	<u>—</u>	<u>6,112</u>

SUMMARY STATEMENT OF CASH FLOWS for the year ended 30 November 2005

Net cash inflow from operating activities	232	193
Net cash outflow from financing activities	<u>(6,112)</u>	<u>—</u>
Net (decrease)/increase in cash held	(5,880)	193
Cash at beginning of year	<u>5,880</u>	<u>5,687</u>
Cash at year end	<u>—</u>	<u>5,880</u>

Part B

SUMMARY STATEMENT OF FINANCIAL POSITION as at 30 November 2005

Opening balance	4,590	4,099
Revenue	1,653	1,543
Transfer from Part A	6,112	-
Expenses	<u>(1,684)</u>	<u>(1,052)</u>
Closing balance	<u>10,671</u>	<u>4,590</u>
Represented by:		
Current assets	11,656	4,849
Current liabilities	<u>(985)</u>	<u>(259)</u>
	<u>10,671</u>	<u>4,590</u>

SUMMARY STATEMENT OF CASH FLOWS for the year ended 30 November 2005

Net cash inflow from operating activities	370	618
Net cash inflow from financing activities	<u>6,112</u>	<u>—</u>
Net increase in cash held	6,482	618
Cash at beginning of year	<u>4,661</u>	<u>4,043</u>
Cash at year end	<u>11,143</u>	<u>4,661</u>

NEW ZEALAND LAW SOCIETY INSPECTORATE

SUMMARY STATEMENT OF FINANCIAL POSITION as at 30 November 2005

	2005 \$000	2004 \$000
Current assets	549	572
Current liabilities	<u>(186)</u>	<u>(159)</u>
Net assets	<u>363</u>	<u>413</u>
Represented by:		
Accumulated funds	<u>363</u>	<u>413</u>

SUMMARY STATEMENT OF FINANCIAL PERFORMANCE

for the year ended 30 November 2005

Operating revenue		
Annual contributions	1,056	1,032
Compliance review costs recovered	174	140
Other	<u>294</u>	<u>176</u>
	<u>1,524</u>	<u>1,348</u>
Operating expenses		
Inspectors' salaries, travel and other	999	909
Compliance review costs	174	136
Administration and other	<u>401</u>	<u>259</u>
	<u>1,574</u>	<u>1,304</u>
Operating (deficit)/surplus	<u>(50)</u>	<u>44</u>

SUMMARY STATEMENT OF CASH FLOWS for the year ended 30 November 2005

Net cash (outflow)/inflow from operating activities	<u>(121)</u>	<u>50</u>
Net (decrease)/increase in cash held	(121)	50
Cash at beginning of year	<u>473</u>	<u>423</u>
Cash at end of year	<u>352</u>	<u>473</u>

Statement of accounts

NEW ZEALAND LAW SOCIETY – CONTINUING LEGAL EDUCATION

SUMMARY STATEMENT OF FINANCIAL POSITION

as at 30 November 2005

	2005		2004	
	\$000		\$000	
Current assets				
Cash and deposits at bank	1,658		1,210	
Debtors	<u>275</u>	1,933	<u>201</u>	1,411
Fixed assets		<u>85</u>		<u>117</u>
Total assets		2,018		1,528
Current liabilities		<u>(679)</u>		<u>(470)</u>
Net assets		<u>1,339</u>		<u>1,058</u>
Represented by:				
Accumulated funds		<u>1,339</u>		<u>1,058</u>

SUMMARY STATEMENT OF CASH FLOWS

for the year ended 30 November 2005

Net cash inflow from operating activities	455	509
Net cash outflow from investing activities	(7)	(49)
Net cash inflow from financing activities	<u>-</u>	<u>750</u>
Net increase in cash held	448	1,210
Cash at beginning of year	<u>1,210</u>	<u>-</u>
Cash at year end	<u>1,658</u>	<u>1,210</u>

NEW ZEALAND LAW SOCIETY – CONTINUING LEGAL EDUCATION

SUMMARY STATEMENT OF FINANCIAL PERFORMANCE

for the year ended 30 November 2005

	2005		2004	
	\$000		\$000	
General Operating Account				
Operating revenue				
Professional development courses	3,462		2,890	
Interest	<u>97</u>		<u>80</u>	
	<u>3,559</u>		<u>2,970</u>	
Operating expenses				
Administration	857		825	
Contribution to stakeholders	41		40	
Professional development courses - direct expenses	<u>2,221</u>		<u>1,781</u>	
	<u>3,119</u>		<u>2,646</u>	
Operating surplus before income tax	440		324	
Income tax expense	(159)		(120)	
NZLS establishment grant	<u>-</u>		<u>854</u>	
Net surplus transferred to accumulated funds	<u>281</u>		<u>1,058</u>	
Accumulated funds				
Opening balance	1,058		-	
Plus: Surplus from statement of financial performance	281		1,058	
	<u>1,339</u>		<u>1,058</u>	
Closing balance	<u>1,339</u>		<u>1,058</u>	

SCHOLARSHIP AND OTHER FUNDS

SUMMARY STATEMENT OF FINANCIAL POSITION as at 30 November 2005

	Centennial Maori		Centennial		Cleary Memorial		Legal Conference	
	2005	2004	2005	2004	2005	2004	2005	2004
	\$000		\$000		\$000		\$000	
Opening balance	26	26	25	25	19	19	833	610
Revenue	2	2	2	2	2	2	53	236
Expenses	<u>(2)</u>	<u>(2)</u>	<u>(2)</u>	<u>(2)</u>	<u>(2)</u>	<u>(2)</u>	<u>(17)</u>	<u>(13)</u>
Closing balance	<u>26</u>	<u>26</u>	<u>25</u>	<u>25</u>	<u>19</u>	<u>19</u>	<u>869</u>	<u>833</u>
Represented by:								
Current assets	26	26	27	27	19	19	869	836
Current liabilities	<u>-</u>	<u>-</u>	<u>(2)</u>	<u>(2)</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(3)</u>
	<u>26</u>	<u>26</u>	<u>25</u>	<u>25</u>	<u>19</u>	<u>19</u>	<u>869</u>	<u>833</u>

Other NZLS representatives

Statutory bodies

Council of Legal Education: Wayne Chapman, Wellington; Chris Darlow, Auckland; Christine Grice, Hamilton; Robert Osborne, Christchurch; Richard Worth MP, Auckland.

NZ Council of Law Reporting: Chris Darlow (*ex officio as NZLS President*); Peter Jenkin QC, Wellington; Chris McVeigh QC, Christchurch; Trevor Shiels, Dunedin; Graham Taylor, Wellington.

Court-related

Ministry of Justice's Courthouse Design, Property & Security Committee: Dick Edwards, NZLS Director of Legal Affairs.

Chief Justice's Criminal Practice Committee: Judith Ablett Kerr QC, Dunedin; Richard Earwaker, Auckland; Philip Morgan QC, Hamilton.

Maori Land Court Consultative Committee: Russell Feist, Wellington.

Maori Land Court Rules Committee: John Stevens, Wellington.

Rules Committee: Chris Finlayson, Wellington; Tom Weston QC, Christchurch (*to 08/05*); Andrew Beck, Wellington (*from 08/05*).

International

International Bar Association: Chris Darlow, Auckland; Bruce Slane, Auckland (*both IBA Councillors*).

LAWASIA: Christine Grice, Hamilton (*NZ Councillor*); Chris Darlow, Auckland (*alternate NZ Councillor*); Ian Haynes, Auckland (*Executive Committee Member*).

Charitable

New Zealand Law Foundation: James Johnston (Chair), Wellington; Kerry Ayers, Christchurch (*NZLS Board nominee*); Annette Black, Wellington (*lay member*); Warwick Deuchrass, Dunedin (*President's nominee*); John Gallie, Te Awamutu; Daphne Rawstorne, Upper Hutt (*lay member*); Sue Styants, Papakura.

NZLS officers and directors

Officers

President	Chris Darlow
Vice-Presidents	Stephen Bryers (for Auckland) John Marshall (for Wellington) Stuart Webster (for rest of North Island) Kerry Ayers (for South Island)
Treasurer	John Marshall

Directors

Executive Director	Alan Ritchie
Chief Operating Officer and Director of Regulatory Services	Rae Mazengarb
Senior Director	Margaret Bryson
Director of Finance	Grant Caradus
Director of Legal Affairs	Dick Edwards
Director of Education	Charlotte Cullen
Director of Communications	Sue Ewart
Consultant	Annette Black



New Zealand Law Society Board 2005-2006

Front row (from left): **Stuart Webster** (Vice-President), **Chris Darlow** (President), **Stephen Bryers** (Vice-President), **Pam Davidson** (Wellington).

Second row (from left): **Jonathan Temm** (Rotorua), **Gary Gotlieb** (Auckland), **Kevin Kilgour** (Auckland).

Third row (from left): **Jacqui Gray** (Hastings, from 07/05 succeeding *Raynor Asher QC, Auckland*), **John Brandts-Giesen** (Rangiora), **Kate Davenport** (Auckland).

Back row (from left): **Anne Stevens** (Dunedin), **John Marshall** (Vice-President), **Alan Ritchie** (NZLS Executive Director).

Absent: **Kerry Ayers** (Vice-President), **Nicolas Short** (CLANZ President, *Observer*).



NEW ZEALAND
LAW SOCIETY

Law Society Building, 26 Waring Taylor Street
PO Box 5041 or DX SP20202
Wellington, New Zealand

Tel +64 4 472 7837 Fax +64 4 473 7909 Email inquiries@lawyers.org.nz
www.lawyers.org.nz