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**Independence, Access to Justice, and the Patriation of
New Zealand's Final Court of Appeal:**

**An Investigation into the Legal and Constitutional Consequences of the Replacement of
the Judicial Committee of the Privy Council with a Supreme Court**

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Abstract

This thesis was an investigation into the consequences of the Supreme Court Act 2003. The main purpose of the research was to assess the extent that the Supreme Court reform has achieved its objectives. In addition, the project explored the constitutional significance of the reform. Two main themes, based on the purposes of the Supreme Court legislation, were chosen as focal points for the research. These themes were **a)** whether the patriation of the final court has promoted New Zealand's legal and constitutional independence and **b)** whether the Supreme Court reform has improved 'access to justice'.

The present study employed a mixed research design that combined both quantitative and qualitative data gathering and analysis techniques. The primary research method was the document analysis of the leave judgments and substantive judgments of the Privy Council and the New Zealand Supreme Court. Five document analyses were conducted during the course of the research. These analyses compared the two courts on, inter alia, the extent that they cite cases from various jurisdictions and on the range and volume of appeals that they heard. In addition, in-depth case studies were conducted on selected judgments in order to assess the approach of the Supreme Court to precedent. Finally, the current project drew on official sources and various secondary sources, especially the extra-judicial writings of senior judges from Australia, New Zealand, and the United Kingdom.

Three key findings emerged from this investigation. Firstly, it appears that patriation has improved 'access to justice'. In terms of leave arrangements and jurisdiction, the new Supreme Court is more accessible than the Privy Council. It also hears a much higher volume and broader range of appeals. Secondly, the present study found evidence that patriation has led to changes in the legal sources that are cited by the final court. In particular, the Supreme Court cites more New Zealand jurisprudence and a broader range of overseas case law than the Judicial Committee. Moreover, the citation of English jurisprudence, although still substantial, has declined relative to the citation of cases from these other jurisdictions. Finally, in terms of its constitutional significance, the Supreme Court Act, when considered in the context of New Zealand's overall constitutional development, can be viewed as completing the century-long process of updating, consolidating, and patriating the major elements of New Zealand's constitution.

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