

FOREWORD

The papers published in this issue of the Victoria University of Wellington Law Review, are edited versions of papers presented at the symposium "The Future of Accident Compensation: New Directions and Visions" held at Victoria University of Wellington's Law Faculty on 5 and 6 December 2003. That symposium followed the previous symposium on accident compensation's past "Looking Back at Accident Compensation: Finding Lessons for the Future"—published at (2003) 34 VUWLR 189-467.

By the very nature of the first symposium, the papers that we published had a certain unity of purpose - trying to explain the four decades of the history of New Zealand's unique accident law regime. Such unity is not necessarily present in the papers that follow. As the title to this symposium indicated, rather than one potential "new direction" or one "new visions", the papers presented a diversity of views on a diversity of subjects relating to the future of "Accident Compensation".

For convenience, however, the papers are grouped around three broad themes. The first, introduced by Dr Susan St John, deals with the more "social policy" aspects of benefits and rehabilitation under the accident compensation regime and includes papers by Dr Bob Stephens of Victoria University, examining the inequities of the current social welfare benefit regime and the benefits provided by Accident Compensation, and Dr Duncan Morris looking at the nature of real rehabilitation under the scheme. The second theme introduced by Dr Petra Butler, deals with medical misadventure. Medical misadventure was chosen as a case study of some of the conflicts and challenges faced by the accident compensation regime. The prevention of medical accidents and the provision for appropriate compensation have remained extremely controversial in New Zealand. The participants, Dr Brian Easton, Bronwyn Howell and Dr Peter Roberts (as well as Jonathan Coates whose paper is not reproduced here) presented quite unique views on the future of medical misadventure and the lessons that perhaps we might learn from the difficulties that New Zealanders have in lessening medical accidents. There was a major debate about how best we might access the information necessary to protect the safety of our medical service.

The third section deals with the broad theme of the future of community responsibility. Again there is a diversity of visions. Professor Richard Gaskins, for example, argues for an approach to the prevention of accidents that deal with the increased importance of networks in society, while United Kingdom academic Ken Oliphant (somewhat controversially) questioned the approach that might be taken in a second best world where the Woodhouse vision of community responsibility is not, and will not, be fully realised. Professor Harold Luntz of the University of Melbourne, Sir Geoffrey Palmer, and Ross Wilson present more traditional accounts respectively of the failure of the tort system (in Australia), the future of community responsibility in New Zealand, and the perspective of unions on community responsibility. The community responsibility section is

rounded off by an interesting account of the future of accident compensation by the current Chief Executive Officer of the Accident Compensation Corporation, Mr Garry Wilson.

Despite the diversity of the visions, one of the interesting aspects of trying to organise a symposium and indeed of the actual discussion at the symposium was the persistent centrality of the original Woodhouse vision. As a matter of public policy, New Zealanders and in particular accident law commentators, see little alternative to the social problem of accidents than an accident compensation regime similar, but not identical, to the one that Woodhouse envisaged almost 40 years ago. There were however lively discussions over the role of litigation in assisting, or in view of many, hindering the accident compensation regime's ability to prevent accidents and the ability to set appropriate limits, short of a full implementation of the general principle of community responsibility.

The editors are keenly aware that missing from the papers published in this volume is the key subject of prevention. Prevention was very much at the forefront of the symposium with presentations by Professor Tord Kjellstrom of the Australian National University and a member of the board of ACC and independent consultant Alan Clayton from Australia. Clearly there is much to be said as to how New Zealand, and other countries, might appropriately use instruments of law and public policy to prevent accidents.

Almost all the participants of the symposium would, I agree think, that the key future of community responsibility is a far greater focus on prevention and rehabilitation. Indeed, one of the most interesting moments during the weekend was a dialogue between Brian Easton, who suggested that we move from a focus on compensation to rehabilitation, and Garry Wilson, who suggested that the success of the Corporation in rehabilitating victims of accidents had largely replaced the Corporation's previous focus on compensation. Such a conclusion may be controversial, especially in view of some claimant advocates, who might argue that the Corporation has reduced numbers receiving compensation in an inequitable fashion. If nothing else, the exchange confirmed the feeling of many that the future of "accident compensation" was not in fact a future of compensating for accidents (although that will always be necessary), but in taking all possible steps to prevent accidents and to rehabilitate those who suffer the consequences of them.