I am honoured to be asked to attempt to make some concluding remarks to such an interesting conference, and privileged to follow Sir Owen Woodhouse. We are so fortunate that we still have him with us to remind what his proposals were about, and the extent to which we have pursued them and – I am afraid – sometimes ignored them.

Sir Owen mentioned that lawyers had considerable difficulty with the notion of cause, on which the fault principle was founded and which his Commission’s proposals rejected; I am glad to say sir, that major contributions to the analysis of cause came from the great economists David Hume and John Stuart Mill – both of which support the lawyers’ doubts.

It is proper in Sir Owen’s presence we should look at the fundamental issues, even if we cannot attain the penetrating insight and creativity that Sir Owen’s commission attained some forty years ago.

However before making my summary offering I should mention there is a complementary question to the topic of how we should pay for ACC, one which Richard Gaskins was in part addressing. It is ‘who pays for accidents?’ Some of the current changes the government to ACC do not reduce the costs of the accidents – in the way that the Woodhouse Commission’s emphasis on prevention and rehabilitation was intended to – but shift their cost from the public purse onto the individual and their families – a privatisation of some social welfare. We need to keep prominent in any discussions the question of ‘who pays for accidents?’

My remarks here mainly address the elephant in the room, here today and in every discussion on ACC funding. It’s a huge elephant; it’s the social security system, and its presence poses the question, why don’t we fund social security and accident compensation the same way?

Treasury economists might explain the difference as means of a raising taxation by stealth while that pre-funding of ACC (and the Cullen Fund) are a means of squirrelling away part of the fiscal surplus so that the reduce taxes-for-any reason brigade could not get at it. They might go on to argue that the ACC levy system reflected that the compensation was

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1. Economic and Social Trust On New Zealand, 18 Talavera Tce, Wellington, New Zealand; www.eastonbh.ac.nz
earnings-related in contrast to the flat-rate benefits paid from general taxation. (Perforce the public account does not have to fund earnings related sickness benefits.) They might also argue that the ACC levy system provides incentives to minimise accidents. (Others might say they are weak and that the prevention activities of ACC are much more important.) I am not sure what the economists would say if asked why we don’t have an earnings-related sickness compensation system, other than that it would be very expensive. So the official’s explanation would have some validity but it would leave many unanswered questions and inconsistencies.

The ACC Minister and the Chairman of the ACC board explain the difference by that one is social security the other is social insurance, but that is a labelling exercise and does not explain why the labels apply. They may be saying that ACC is just another way of doing the old private insurance scheme. Grant Duncan talked about how the rhetoric of the motor cyclists was based on the fault system which is an indication of this. However a number of today’s speakers (including Susan St John, Richard Gaskins and Sir Owen himself) were adamant that the Woodhouse Scheme not about doing the old ways better, but doing it differently as well as better.

A historian would point out that the two systems have different origins.

ACC is the successor of the older scheme which began before there were effective means of delivery so the clumsier tort litigation and private insurance had to be used. But that does not mean that those arrangements should be persisted with, any more than we should use horses and buggies to deliver the crippled worker’s bag of coins because that was the way things were done in the nineteenth century.

Social security is an example of doing things better, replacing the Poor Law. As we know it, the welfare state began with the Old Aged Pension in 1898 in response to an aging crisis. Because we always leave things to too late there could be no pre-funding for it or for the Widow’s Pension in 1911 and so on. So it was paid out of the current public revenues. There was a prefunding element in the 1938 Social Security Act, reluctantly adopted because New Zealand’s London bankers required it. But the social security fund simply involved paper transfers and quickly became farcical. It, and the social security tax, were abandoned in 1968. More fundamentally, for most New Zealanders, Social security reflects a quite different conception of government support for those in need.

Now we might reverse the issues covered today and ask if ACC prefunding is such a wonderful scheme, why don’t we prefund social security, so that whenever a child is born or a migrant arrives the state invests in a fund to pay for their future public costs.

The exercise would involve mind boggling complexities providing a guaranteed career for
actuaries. It would also pose considerable fiscal and macroeconomic challenges. They are already there in the current ACC scheme, but less evident because it is much smaller than social security. Since in the past such practical considerations have not hindered much more extremists changes, why not this time?

It is easy to dismiss this as irony, a series of paradoxes which have little relevance for the immediate political pressures on the scheme. But that is always the way we seem to operate – ad hoc responses to current pressures. Richard Gaskins and Susan St John were right to go back to basics, but it is not simply a question of original intention.

Trying to think about the elephant, I was struck by how much of the discussion is constrained by the accounting and actuarial framework that is used. It seems to me that Michael Littlewood’s (quite orthodox) description of the government balance sheet had a major gap when it omitted the sovereign right to tax. While I dont know how to include it – Jeff Chapman [who attended the conference and chaired the early-1980s committee which set the framework for the government accounts] might be able to help here, Gilling’s Law says how you score the game determines how the game is played. If we leave the sovereign right to tax out we play the game differently. It is implicitly there in the welfare state accounts, and explains why it is pay-as-you go. But it is not there in the ACC accounts, and so we play a different game, or at least the minister wants us to. Meanwhile those who criticise the current ACC funding system do so from a perspective that implicitly incorporates a sovereign right to tax.

So here is the challenge: suppose we were to start afresh to design a welfare system in which there was a continuity between the accident provisions and the other provisions (perhaps within existing fiscal parameters). What would it look like? Who knows? One thing I am sure is it would not look like the current ACC system. But to do so would give a context in which to debate the current issues in a comprehensive rather than ad hoc way. It would be to harness the elephant in the room.

Finally as the last speaker, it is my pleasant task to thank the Retirement Policy and Research Centre and Claire, Michael and Susan for an excellent and well organised conference. I know the issues it was intended to raise will progress as a result.