

Blaming the System

Graeme Hunt, Scandal at Cave Creek: A Shocking Failure in Public Accountability, Wellington Publications Ltd in association with the National Business Review, Auckland, 1996

Reviewed by Mike Beverland

ON 28 April 1995, a viewing platform on land owned by the Department of Conservation (DOC) on the West Coast of New Zealand's South Island collapsed, taking 18 people with it. Fourteen people of them died. The government responded quickly with a lengthy public inquiry, which Graeme Hunt, a senior writer with the *National Business Review*, characterises as an 'expensive waste of time' whose 'purpose was political — to show the government was "doing something"' (p. 6). The conclusion of the court of inquiry that this was 'a tragedy almost bound to happen' (p. 15) was right but for the wrong reasons.

Hunt's book documents a government department in complete disarray, ignorant of the law, against the reform of the public sector from its outset, staffed by people lacking in any management skills, and unwilling to consider the warnings of outsiders about possible safety problems. The court of inquiry concluded that the disaster was due to

[t]he department act[ing] unlawfully but the named individuals did not. The department did not act in a competent and appropriate manner. Nor did its nominated staff members, but all the while [they] were working within a system that was fatally flawed. (Department of Internal Affairs, 1995:86)

This was the argument that identified what came to be known as 'institutional' or 'systemic' failure. By finding that the disaster was caused by systemic failure, Commissioner Graeme Noble not only failed to address the terms of reference that required him to investigate whether anyone had acted in an unlawful manner, but virtually ruled out that possibility altogether. By making the department the guilty party, he eliminated any possibility of criminal charges being laid, since under New Zealand law only individuals can be charged with a criminal offence.

The main interest of the book lies in its presentation of the workings of the internal inquiry process. Hunt documents what he calls a '\$2 million grieving process' (p. 16) where the judge appointed to oversee the inquiry, Graeme Noble, was not only ill-equipped to tackle its terms of reference but erred on several counts:

Refusal to use the inquiry to flush out the wrongdoers in DOC; reluctance to solicit expert independent testimony on DOC's management culture; deference to one more qualified than himself, DOC senior counsel Rennie; reluctance to see other than good in DOC's senior management team in

spite of the gravity of the Cave Creek tragedy; and willingness to allow witnesses to use the inquiry to attack the government over funding of, and reforms to, DOC. (p. 17)

The result was that 'a vast amount of time was spent in establishing the obvious — that a viewing platform, built without a permit and not within a country mile of the standards of the Building Code, collapsed killing 14 people and injuring four others' (p. 19).

DOC's argument that 'underfunding contributed to the platform collapse at Cave Creek' (p. 12) was sanctioned by Noble, who asserted that 'The root causes of the collapse lie in a combined systemic failure against the background of an underfunded and underresourced department ... subject to pressures ... from altered priorities' (pp. 28-9). Against this, Hunt insists that 'Cave Creek is not about spending cuts, divisions within a department or politics; it is about death caused by managerial malpractice at the highest level' (p. 47). He offers a series of proposals designed to ensure that such malpractice never happens again. These involve removing the difference between the standards applying in the public and the private sectors on issues of criminal culpability, and also persuading the senior management involved to resign (which they have since done).

But although Hunt's proposals for legal change are sound, he never really gets to the heart of the issue, which is whether an organisation can be adequately disciplined when it faces no competition, is not guided by the profit motive, and has no immediate interest in the success or failure of its decisions that would lead it to hold the safety of its customers paramount. The key to all the other questions is the fact that a judge can argue that a department can somehow act independently of its staff. Hunt states that 'common sense dictated the department could not have been negligent had it not been for the prior negligence of its own employees' (p. 30). More than that: the reification of a collective whole above its constituent parts is the philosophy that justifies government intervention in the first place.

Nevertheless, Hunt's book remains a well documented and well argued presentation of a case where 'The Crown, through the subset of the Department of Conservation, was as guilty as sin for the death of 14 young people yet free as a bird' (p. 28).

Reference

Department of Internal Affairs (1995), *Report of Inquiry into the collapse of a viewing platform at Cave Creek, near Punakaiki on the West Coast*, GP Print, Wellington.

Mike Beverland is Lecturer in Applied Management at Unitec: Institute of Technology, Auckland.