



State Archives
& Records

Changing of the Guard and a New Era of Reform

RELEASE OF THE 1988 NSW CABINET PAPERS



TABLE OF CONTENTS

1. Introduction	2
2. Final Labor decisions before the March 19 election	2
Gun control	2
New national parks	3
Luna Park redevelopment	4
Decisions during Caretaker period	4
Proposed Legislation for AMP Society	5
3. Greiner Government's anti-corruption and transparency measures	5
Ministerial Code of Conduct	6
Independent Commission Against Corruption (ICAC)	7
Freedom of Information Legislation	7
4. First key steps in broad-based reform of public services and finances	8
Closure of State Brickworks	8
Competition in long distance bus services	9
Essential services legislation	10
1996 Olympic Games bid	10

1. INTRODUCTION

1988 was a memorable year in Australia. It was the Bicentenary, the new Australian Parliament House was officially opened by Queen Elizabeth II, and there was Expo 88 in Brisbane. Less remembered is the failed Australian referendum for four-year election terms and constitutional protection for civil rights.

It was also a big year in NSW politics: in March, the Coalition won a landslide election with a swing of 8.3% - the largest for a change of government at the time. Led by Nick Greiner, the new government ushered in changes that transformed public administration in the state and paved the way for similar reform in other states and the Commonwealth. The key ideas underpinning these reforms continue to be reflected in policymaking today.

Following are the key Cabinet decisions for the period up to the beginning of September 1988, the current period of open access to the State Archives Collection. Over 240 matters were considered by Cabinet during this time.

2. FINAL LABOR DECISIONS BEFORE THE MARCH 19 ELECTION

By January 1988 the NSW Labor government had been in power for nearly 12 years. Neville Wran, Premier from 1976 to 1986, dominated NSW politics for much of his time in the role, winning the 'Wranslide' elections in 1978 and 1981. However, in the 1984 election the Labor Government sustained a swing of nearly 7% and the loss of 11 seats.

Over the next two years there was growing public debate about corruption, waste and mismanagement in government. When Premier Wran resigned from Parliament in July 1986, Labor was behind the Opposition in the polls and went on to lose his previously safe seat of Bass Hill to the Liberals in a by-election. And his successor Barrie Unsworth - who was required to switch from the Legislative Council to the Legislative Assembly to take up the premiership - won the Rockdale by-election by 54 votes.

At the start of 1987 the Government moved ahead of the Opposition in the polls, leading to speculation that Premier Unsworth would call an early election later that year. However, by mid-1987 the Opposition was again in front, and in 1988 it had established a lead over the government.

Cabinet made two electorally significant decisions in January 1988.

GUN CONTROL

On 25 January 1988, less than a month before the government called the election, the Unsworth Cabinet's Policies and Priorities Committee approved legislation to reduce the number of firearms in the community by restricting the classes of persons entitled to possess a firearm. The legislation established a general prohibition on possession of a firearm subject to four classes of exemptions: occupational; sporting; collecting; and vermin control. The reforms would have also required the annual registration of firearms and created an offence for using a firearm in the commissioning of an indictable offence. Under the changes, compensation was to be provided for surrendered firearms at an estimated cost of \$14.4 million.

In announcing the reforms, Premier Unsworth said: 'My government is determined to change the perception among some people in society that they have a right to carry guns whether they have a useful purpose for them or not.'

While the minutes do not give a reason for Cabinet's decision to act at that time, in 1987 Unsworth had unsuccessfully pressed for national gun reform in the wake of the Hoddle and Queen Street massacres in Melbourne. And two other mass shootings occurred that year: the Canley Vale Huynh family murders and the Top End shootings in the Northern Territory and Western Australia. In all, 25 people were murdered with a firearm in 1987.

The Opposition did not support the legislation and accused the government of a desperate attempt to win back votes in the lead up to the election. Analysis at the time indicated the decision ended up causing Labor electoral pain. Although 70% of voters supported gun reform, it was not a vote changer for this group whereas many opponents did change their vote, a factor leading to Labor's loss of five seats on the urban fringe of Sydney.

Following the election, Labor Opposition Leader Bob Carr ruled out further attempts at gun reform without bipartisan support. It took the Port Arthur massacre in 1996 before the NSW Government acted again, in concert with the Commonwealth and other states and territories. Somewhat prophetically, Premier Unsworth reportedly warned in 1987, after Tasmania resisted moves for national gun reform, that: "It will take a massacre in Tasmania before we get gun reform in Australia."

NEW NATIONAL PARKS

On 28 January, the Unsworth Cabinet approved the establishment of over 80,000 hectares of new and expanded national parks and nature reserves in south east NSW. This included two new parks, the expansion of another park and the creation of two new nature reserves. The decision also provided compensation and re-employment for 53 forestry workers affected by the resulting closures of the Bega and Bombala sawmills.

In his media release the next day, Premier Unsworth said the decision would see nearly 5% of the State covered by national parks and protect almost all wilderness areas in eastern NSW. Premier Unsworth added that the decision reinforced the NSW Government's national leadership on environmental issues and noted "the NSW national park system was now the most comprehensive and diverse in the world".

The Cabinet Minute indicates the decision arose out of calls from conservation groups and the National Parks and Wildlife Service to protect areas in the south east from environmental degradation caused by wood chipping and to protect significant plant communities such as the eucalypt forests surrounding the Bega Valley.

While the announcement may have enhanced Labor's environmental credentials with urban voters, it impacted the Government's standing in parts of rural NSW due to its effect on forestry workers. This contributed to Labor's loss of two seats in the south east at the election, Burrinjuck and Monaro.

Although the Cabinet decision ultimately proved damaging for the government, at the time it was announced the Opposition saw it as a potential wedge designed to divide urban Liberals from the

regionally-based Nationals. Consequently, Nick Greiner and Nationals Leader Wal Murray, decided not to oppose the expansion.

LUNA PARK REDEVELOPMENT

On 16 February, the Cabinet considered a minute seeking approval in principle for the proposed redevelopment of the Luna Park site by Prome Investments. In 1981, Cabinet had approved the grant of a sub-lease of the site to Harbourside Amusement Parks Pty Limited, which NSW police suspected crime boss Abe Saffron was behind (according to evidence to a federal commission of inquiry), and under a clause in the sub-lease Harbourside had to seek consent from the Government to assign the sub-lease to another party (Prome).

The minute lists two controversial investors Prome planned to raise capital from for the redevelopment. One was Tricontinental Australia Limited, the merchant bank subsidiary of State Bank of Victoria, which brought down the bank in 1990 due to its irresponsible lending practices. A Royal Commission into Tricontinental in 1991 found Victorian taxpayers were forced to bail out the bank to the tune of \$2.7 billion, \$2.1 billion of which was due to Tricontinental.

Another investor was Entrad, a company controlled by corporate fugitive Abe Goldberg who fled the country in 1990 after siphoning off funds from Linter Group – the company, which was 50% owned by Entrad, collapsed that year with debts of over \$1.3 billion. ASIC issued multiple arrest warrants for Goldberg, however he was never brought to justice, dying in Poland in 2005 with reported property assets of over \$700 million.

Treasurer Ken Booth raised strong objections to Prome's proposal for Luna Park, stating there was a lack of sufficient information to assess the financial viability of the redevelopment and questioning Prome's claim the redevelopment would attract 2 million visitors per annum - a five-fold increase on current patronage and almost equal to the number of annual visitors to The Rocks.

Booth said a "more appropriate approach" would be to seek proposals from other organisations. He added that, if Cabinet decided not to open up the process, an interdepartmental committee should conduct a market analysis and assess the project's financial feasibility. Without this, Booth warned the project could fail and lead to the government having to provide financial support to Prome.

Cabinet appears to have partly taken Booth's advice, deciding to defer the matter pending consideration by an interdepartmental committee.

DECISIONS DURING CARETAKER PERIOD

The caretaker period began on 22 February when the Legislative Assembly was dissolved and the Governor issued writs to proceed with an election. Under the well-established 'caretaker convention' in Australia, the executive government should avoid major decisions, appointments or contractual commitments if they are likely to bind a future administration. This is because the dissolved parliament can no longer hold the government to account. If decisions cannot be deferred until after the election - e.g. to address an urgent public safety matter - the government should consult the Opposition before taking action.

The caretaker convention also states that Cabinet generally does not meet, though the Premier can decide to hold meetings - there is no law to prevent this. The Unsworth Cabinet met once in the caretaker period, on 9 March, and considered five matters:

- Proposed legislation to amend the Industrial Arbitration Act, 1940
- Policy on the use of Rainforest Timbers
- Government Media Advertising Litigation – Crown Representation
- Proposed Legislation for AMP Society
- Proposed Establishment of a Victim Services Agency

While none of these decisions would appear to have bound the future Greiner Government, it is unclear why the Unsworth Cabinet decided the matters could not be deferred until after the election. For instance, Cabinet considered proposed legislation to amend the Industrial Arbitration Act even though Parliament had been dissolved and the bill could not be voted on. The Cabinet meeting was also unusual because it was in the midst of an election campaign where the government was fighting for its survival.

PROPOSED LEGISLATION FOR AMP SOCIETY

In the context of the 2018 Banking Royal Commission's examination of Australia's major financial institutions, an interesting decision was Cabinet's approval on 9 March 1988 of a change in AMP's corporate status to a company limited by guarantee. The Attorney General's Cabinet minute argued that the change was necessary as the act under which AMP operated - the AMP Society's Act 1910-1941 - was restrictive, inflexible and not consistent with the new environment of financial deregulation in Australia. He added that AMP was a "pillar of the Australian financial community" and that the change in AMP's corporate structure would help it to continue playing "a strong role in the development of New South Wales". The minute also indicated that Cabinet approval "would fulfil a commitment made by the Attorney General when he recently met with representatives of the AMP."

While Labor's proposed legislation did not pass before the election, the Greiner Cabinet approved the changes to AMP's corporate structure on 9 August. The Cabinet minutes reveal a disagreement between the Attorney General and Minister for Consumer Affairs and Small Business about whether AMP Society should be required to add 'Limited' to its name to make the public aware they were dealing with a company with limited liability. The Attorney General argued that AMP Society should not be required to do so due to its "strength as one of Australia's leading financial institutions" and the fact that it had been known by its current name for 130 years. However, the Minister for Consumer Affairs and Small Business successfully argued that it was essential for the public to be alerted to the actual status of AMP and to ensure a level playing field with competitors.

3. GREINER GOVERNMENT'S ANTI-CORRUPTION AND TRANSPARENCY MEASURES

On 26 February, a week after the election was called, Nick Greiner announced the Opposition's anti-corruption election platform. The platform included the establishment of a ministerial code of conduct and ICAC, tougher laws on bribery and official misconduct, and an overhaul of tendering procedures.

The context for the Opposition's platform was growing public concerns about corruption and misconduct in the NSW Government. As Greiner said after he became Premier, "I indicated before our being elected to Government that I was appalled by the sort of reputation this State had acquired around the country and indeed, overseas. There was a general perception that people in high office in this State were susceptible to impropriety and corruption. In some cases that has been shown to be true."

He explained why this perception of corruption had taken hold in the public's mind: the jailing of a minister for bribery; inquiries into two other ministers for alleged corruption; the jailing of the Chief Stipendiary Magistrate for perverting the course of justice; the charging of a former Commissioner of Police; and the charging of a former Deputy Commissioner of Police for bribery.

MINISTERIAL CODE OF CONDUCT

On 29 March, only 10 days after the election of the Greiner Government, Cabinet approved Australia's first ministerial code of conduct. The Commonwealth and other states eventually followed NSW's lead in the mid-1990s and 2000s.

The year before the introduction of the code former Prisons Minister Rex Jackson was jailed for taking bribes for the early release of prisoners to meet his gambling debts, while in 1983 the Street Royal Commission was held into allegations premier Neville Wran attempted to influence a magistrate. (The Royal Commission cleared the Premier). And in 1984 Planning Minister Paul Landa was the subject of a police inquiry into allegations he solicited bribes, but died before it was completed.

The Cabinet Minute's draft code states in the preamble that to ensure public confidence in the Executive Government, Ministers of the Crown must "exhibit, and be seen to exhibit, the highest standards of probity in the exercise of their offices, and that they pursue, and be seen to pursue, the best interests of the people of New South Wales to the *exclusion* of any other interests" (emphasis added). The code then sets out two guiding principles for ministers:

1. Ministers will perform their duties impartially, disinterestedly and in the best interests of the people of New South Wales.
2. Ministers will be frank and honest in official dealings with their colleagues and will maintain the confidentiality of information committed to their secrecy.

While the code detailed specific obligations - e.g. the registration of ministers' interests, not soliciting gifts and hospitality - the drafters recognised that it could not cover every contingency, so they cleverly added the catch-all: "[a]ny ethical determination on a matter not provided for in this code should be in conformity with the two principles stated above".

The code was first put to the test in late 1988 when a minister informed the Premier that Matt Singleton, Nationals Minister for Administrative Services, was lobbying to get a parcel of land on the North Coast, in which he had an interest, rezoned for development.

Greiner announced a review in January 1989 into the conduct of Singleton, and that of the Deputy Premier and other National Party ministers over North Coast land dealings. The review found serious breaches by Singleton and he was immediately forced to resign from Cabinet. A final report in March found no serious breaches on the part of the Deputy Premier and other ministers.

The code of conduct remains in place today. In 2014, the Baird government revised the code to allow suspected breaches to be investigated by the Independent Commission Against Corruption.

INDEPENDENT COMMISSION AGAINST CORRUPTION (ICAC)

On 24 May, the Greiner Cabinet approved the preparation of legislation to establish ICAC, the first dedicated anti-corruption body in Australia and today one of the oldest and most powerful in the world. Other Australian states and territories did not set up anti-corruption bodies until the 2000's, while the Commonwealth is yet to establish one.

Modelled as a standing Royal Commission against corruption, ICAC was first announced by Greiner on 15 January 1988. Barrie Unsworth labelled the policy a 'micky mouse' idea, while some shadow ministers privately expressed concerns that their reputations could be sullied by unfair allegations. After the election, Neville Wran attacked ICAC as 'The New McCarthyism' in an article in the Bulletin, but Opposition Leader Bob Carr decided to support the legislation over strong opposition from many in the Labor caucus, stating years later that he supports ICAC because "[i]t keeps my party's criminal faction in check."

ICAC was arguably the most consequential Cabinet decision of 1988, if not the entire seven years the Coalition was in office. Within the first few years of being set up, ICAC had conducted dozens of inquiries across government, including, amongst others, investigations into the alleged fabrication of police evidence, the selling of drivers licences by driving examiners, and the awarding of a helicopter tender to a company with no prior helicopter experience. Councils and departments also came under examination over allegations of rigged tenders and bribes to approve land developments.

Nick Greiner was himself the subject of an ICAC inquiry in 1992 over accusations he attempted to shore up his minority government by inducing former Liberal MP and Education Minister Terry Metherell to resign from Parliament with an offer of a job at the Environment Protection Authority. ICAC made corruption findings against Greiner (subsequently overturned by the Supreme Court), leading to his resignation as Premier after Independent MPs threatened to support a motion of no confidence in the government if he did not step down.

Perhaps the most powerful aspect of ICAC is its public hearing process. ICAC architect Gary Sturges said in 2013, "Corruption is behaviour between consenting adults, in secret. It's a crime of the powerful. What we have is a process of shame, exposure and cleansing. It's a morality play, to be played out in public."

ICAC has continued to play a large role in NSW public life, holding over two hundred inquiries in the past 30 years and making corruption findings against hundreds of public officials and members of the public. In that time, ICAC has also recommended to the Director of Public Prosecutions that consideration be given to the prosecution of a number corrupt persons on criminal charges.

FREEDOM OF INFORMATION LEGISLATION

On 31 May, Cabinet approved the introduction of Freedom of Information (FOI) legislation to give the public a statutory right to access government records, subject to certain exemptions. Prior to this, public access to records was solely at the discretion of ministers and public servants, and no appeal process existed when access was denied.

The legislation also gave citizens the right to apply to amend their personal records on the grounds of being incorrect, out of date or misleading.

Along with the introduction of ICAC and the Code of Conduct, Premier Greiner viewed freedom of information laws as a necessary part of any modern, transparent government, and was influenced by the Federal and Victorian governments' introduction of FOI laws in 1982. The same year, Liberal MP and future Environment Minister Tim Moore moved a private members bill for FOI legislation in the NSW Legislative Assembly.

FOI legislation was first proposed by Professor Peter Wilenski in his official report on the NSW public service in 1977, and again in his final report in 1982 in which he criticised the NSW government for its culture of secrecy.

The FOI Act commenced in July 1989, and in the years since has been extensively utilised by public interest groups, the media and opposition to try to shine a light on government decision making. While the original FOI Act made government more open and accountable, exemptions in the Act gave ministers and officials wide latitude to either refuse public access or heavily redact documents; FOI applicants also complained about excessive charges for processing requests, sometimes running into thousands of dollars, and long delays in providing documents.

After years of public criticism and Ombudsman reports calling for reform, FOI laws were amended in 2009 by the Rees Labor Government under the Government Information (Public Access) Act (GIPA) to create a new right to information with "a presumption in favour of the disclosure of government information". The new Act also established the Office of the Information Commissioner (OIC), a statutory office with independent oversight of the GIPA system.

4. FIRST KEY STEPS IN BROAD-BASED REFORM OF PUBLIC SERVICES AND FINANCES

In addition to ICAC, the Greiner Government is best remembered for its economic reform program, with Greiner famously describing the NSW Government as a business - later dubbed 'NSW Inc' - that needed to be more efficient and live within its means.

Greiner wasted no time, announcing within the first three weeks of being elected a Commission of Audit into the State's finances. The audit revealed a large budget deficit and public-sector overspending and helped generate a mandate for the reform that followed over the next few years, including asset sales, the corporatisation of commercial enterprises, spending cuts, industrial relations changes, a shakeup of the public service, and greater private sector involvement in public service delivery. Commissions of audit have become standard practice for many new governments around Australia over the last 30 years.

CLOSURE OF STATE BRICKWORKS

One of Premier Greiner's so-called 'A+' priorities on coming to government, Cabinet decided on 26 May to sell the State Brickworks, together with Homebush Abattoir, after concluding there was no 'public good' in the state making bricks when there was a competitive private market. This set the scene for further asset sales over the course of the Coalition government, and over subsequent decades in NSW and around Australia.

At the time, State Brickworks was losing \$1 million a year due to a difficult market environment characterised by depressed prices, oversupply, and the growing domination by Boral, CSR and other major brickmakers. Its market share had declined to 6 per cent of all bricks sold in NSW.

The Cabinet minute estimated the sale of the brickworks would raise approximately \$18 million for the state coffers after paying off \$7m of debt to Treasury, and noted the funds could be used for high demand projects such as school maintenance and security. The minute also stated that the NSW Government's upcoming bid for the 1996 Olympic Games would earmark the Brickworks and Abattoir sites.

The decision to close the brickworks was emblematic of the government's withdrawal from State ownership of other commercial businesses over the next few years, including a school furniture factory, a printing business, a bank (State Bank), an insurance company (GIO), and coal and grain handling facilities. While many people would be surprised to hear NSW once operated commercial enterprises, public ownership was common across Australia and the world in the 1980s. For example, at the time the Commonwealth government owned Telecom (as Telstra was then known), Qantas, the Commonwealth Bank, CSL, the Indian Pacific railway, and Medibank Private. How the business of government has changed in the past three decades.

Although ministers strongly supported the closure of the brickworks, they were conscious of the human cost: 178 employees at the Homebush plant would be retrenched, while the sale of the Blacktown works as a going concern meant 32 employees could lose their jobs. As part of the decision all employees were offered redundancy packages, and to further cushion the blow Cabinet decided that potential purchasers of the Blacktown plant would be required to employ existing staff for six months.

The key point of contention within government was the proposal to only give staff and unions short notice of the Cabinet decision, with the Minister for Industrial Relations John Fahey highlighting in the minute that the short notice posed administrative challenges for his portfolio. Further, the Director General of the Cabinet Office Gary Sturgess described the plan in a memo to the Premier on 15 April as "foolish" and "detrimental" to future privatisation plans. The Director General also raised concerns about the lack of regard for the government's commitment not to sack workers and recommended that the government begin negotiations on a redundancy package that satisfies unions and staff. He concluded that "[w]hile this may be more costly in the short term, I believe it will be a profitable investment in future attempts at public sector rationalisation."

COMPETITION IN LONG DISTANCE BUS SERVICES

Following a commitment in the Opposition's tourism election platform, Cabinet decided on 24 May to remove licence restrictions that prevented long distance bus services from competing with existing bus and rail services. In recommending the change, the Cabinet minute referred to a trial of competitive services by the Unsworth Government in 1986-87 on the North and South Coasts which delivered major benefits to travellers, including lower fares, higher frequencies, and more direct and accessible services.

A sticking point within the government was whether long distance buses should continue to need to be registered in the State. The Cabinet minute from the Premier's Department argued that the restriction artificially limited competition as many long-distance services operate across Australia.

Peculiarly, the then head of the Premier's department, Gerry Gleeson, disagreed with his department and issued a 'Canary' brief – a yellow note with personal advice – which warned of a "grave public safety risk" if the government went down this path as out of state buses would no longer be subject to NSW pre-registration safety checks. Cabinet decided to retain the requirement that buses be registered in NSW.

The decision to remove licence restrictions on long distance buses was the start of a bigger push by the Greiner government to unwind local bus monopolies in western Sydney, with Cabinet requesting a briefing paper on Sydney bus services. This proved more difficult than anyone imagined, taking successive governments decades to bring about reform.

ESSENTIAL SERVICES LEGISLATION

One of Premier Greiner's A+ priorities was to ensure his Government's reform agenda was not hampered by public sector unions. On 31 May Cabinet approved the Essential Services Bill 1988 to enable the Government to protect the community from disruption in the provision of essential services arising from industrial action or other events such as natural disasters, civil emergencies.

Essential services were broadly defined in the Cabinet Minute to cover power, fuel, energy supplies, public transport, firefighting, public health services, pharmaceuticals, garbage sewerage, water, welfare and prisons. The Governor also had the power to declare any service an essential service.

The legislation had far reaching powers, allowing the declaration of a state of emergency and the deregistration of unions engaged in "activities contrary to the public interest". The bill also allowed inspectors appointed by a minister to enter and inspect premises, and made it an offence to not answer questions or provide information to inspectors.

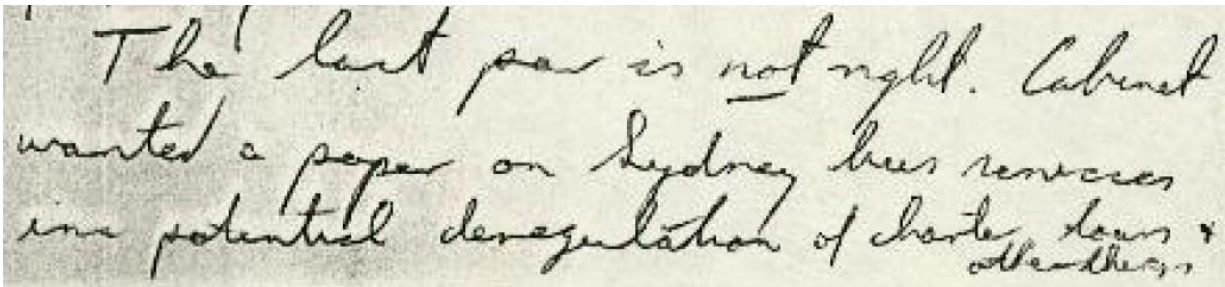
1996 OLYMPIC GAMES BID

On 6 October, Cabinet endorsed Sydney Olympic Games Citizens' Council application to the Australian Olympic Federation to host the 1996 Games. Consistent with the Greiner Government's commitment to fiscal restraint, the approval was conditional on the games being staged at no net cost to the taxpayer.

Cabinet relied on a financial analysis by Macquarie Bank which found that while the games would cost \$1.8 billion to host, this would be offset or even exceeded by revenue from broadcasting rights, international and national marketing, gate receipts and sponsorship. This cost estimate can be viewed against the actual cost of staging the 2000 Sydney Olympics: a 2002 Auditor General's report found the cost was \$6.4 billion and the net cost to taxpayers of at least \$1.3 billion.

What did Cabinet actually decide?

The minutes on long distance bus services reveal the challenges in recording Cabinet decisions. Greiner disagreed with the Transport Minister's claim that Cabinet agreed to remove licence restrictions for charter and tourist bus services, stating in a handwritten note (below) that "the last par is not right. Cabinet wanted a paper on Sydney bus services including potential deregulation of charter tours and other things".



The last par is not right. Cabinet wanted a paper on Sydney bus services in potential deregulation of charter buses & other things.

A key factor in the confusion was that Cabinet did not have a full-time minute taker at the time. Traditionally Coalition governments had a minister take the minutes, however this can be problematic since a minister also needs to participate in the debate. Minute taking is also a complex process as decisions are rarely made by a vote; they tend to emerge organically and by consensus.

A famous anecdote on recording Cabinet decisions concerns the events leading to the resignation of John Bright from the cabinet of UK Prime Minister William Gladstone in 1882. In a letter to Gladstone's private secretary, Lord Carrington's secretary says that cabinet members William Harcourt and Joseph Chamberlain had visited Carrington that morning to discuss what happened in Cabinet: "They cannot agree what occurred. There must have been some decision, as Bright's resignation shows. My Chief has told me to ask you what the devil was decided for he be damned if he knows."

Soon after the decision on long distance buses, Greiner appointed a Cabinet Secretary to record minutes at Cabinet meetings and monitor the execution of decisions.