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**TRANSCRIPT  
OF PROCEEDINGS**

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**PRODUCTIVITY COMMISSION**

**REVIEW OF LEGISLATION REGULATING THE ARCHITECTURAL  
PROFESSION**

**PROF J. SLOAN, Presiding Commissioner  
DR N. BYRON, Commissioner**

**TRANSCRIPT OF PROCEEDINGS**

**AT MELBOURNE ON WEDNESDAY, 21 JUNE 2000, AT 9.34 AM**

**Continued from 13/6/00 in Sydney**

**PROF SLOAN:** This is the fifth day of the public hearings of the review of legislation regulating the architectural profession. It is being held in Melbourne on Wednesday, 21 June in the year 2000. My name is Prof Judith Sloan and I am a commissioner of the Productivity Commission and my colleague to the left is Dr Neil Byron who is also a commissioner of the Productivity Commission.

There are just a few housekeeping rules that I think I need to go through, but also to perhaps introduce the Productivity Commission. The Productivity Commission is I think - how would you put this, Neil - the principal micro-economic reform agency of the federal government, and we have been commissioned by the federal government, by the treasury - treasurer, I should say - to undertake this review. It is being conducted under the National Competition Policy and you should bear that in mind. It is not about architecture. It's not about the role of architecture in Australia, and I think you should keep that in mind. Dare I say it, it's not about bagging the Productivity Commission. We've had quite a lot of - how shall I say it - playing the man - - -

**DR BYRON:** Rather than the ball.

**PROF SLOAN:** - - - rather than the ball - ma'am - including me. That doesn't mean that we're thin skinned, it's just that I think for the purpose of this inquiry that attacking the Productivity Commission doesn't get us unaware. Might I say for the architects who are here, and I think there are a few - where is that article, Neil?

**DR BYRON:** Which one?

**PROF SLOAN:** The one about the building designers. Dare I say that bagging the competitors doesn't get you anywhere either. We seem to have had an awful lot in this inquiry about the architects trying to condemn the building designers and other groups and really, I think the truth is that that doesn't get us anywhere either, so certainly in terms of the proceedings of the next couple of days, I'd rather see that kept to a minimum.

As far as the actual housekeeping is concerned, what we normally do is we call the participants to the stand and then time is allotted according to the schedule, but the participants would be given, depending on the scope of their submission, between maybe 10 and 15 minutes to make their statement and then we would open it up for questions. It is a strict rule that we can't accept any interjections from the audience. The whole proceedings are transcribed and therefore if we were to have any interjections from the audience, then of course we couldn't have any identification, so we do have to stick to that rule.

I would like to go back to that point about it being focused on national competition policy. This is a review that comes out of the Competition Principles Agreement. It is different from other reviews, including reviews of the architectural profession, in that there is a reverse onus of proof, so effectively those who wish to keep these pieces of legislation, this kind of statutory regulation, the onus of proof is

on them to establish that the community benefits are greater than the community costs and that there aren't alternative means which don't involve restricting competition which could better serve the objectives which the legislation is trying to serve.

So it is, I suspect, what you might see as a slightly steeper hill than perhaps other inquiry processes, in that the presumption is that these kinds of pieces of legislation should probably not exist and therefore there has to be a demonstration of the case for them continuing to exist, including in a modified form.

The first group we have got today is from the Association of Consulting Architects, Victorian branch. Are those members sitting there? If you could come up, and realise there's no amplification. The microphones are there for the purpose of recording the transcript and so we need to have your names and affiliations for the purpose of transcript.

**MR PREST:** I'll just do the introductions. My name is David Prest. I'm the treasurer of the Victorian branch of the Association of Consulting Architects. The presentation is going to be made by Struan Gilfillan, who is the vice-president of the Victorian branch of the association, and we also have Ainsley Jolly with us, who is an economic consultant who has provided an annexure to our submission.

**PROF SLOAN:** Okay, that's fine. You're going to make - - -

**MR PREST:** No, the submission is going to be made by - - -

**PROF SLOAN:** Sorry, you are Struan. Is that right?

**MR GILFILLAN:** Correct.

**PROF SLOAN:** So you're going to speak to your submission?

**MR GILFILLAN:** I am, yes.

**PROF SLOAN:** Okay, fine.

**MR GILFILLAN:** Madam Chair, thank you for the opportunity of speaking to you today. My name is Struan Gilfillan and I'm an architect. I've had 25 years' experience as a director of Bates Smart and McCutcheon, a firm of varying between 250 and 50 architects from time to time over that 25 years. I'm a member of the RAI, of course, and I've been a past chairman of the Victorian Practice Committee and I sit on various other committees. At the moment, I'm a sessional member of VCAT which is the Civil and Administrative Tribunal and I'm in the planning list as a sessional member.

ACAA is a national organisation with about 700 practices and our objects have been set down and we regard those as pretty important: the higher standards of architectural services, higher standards of architectural information. We promote

architectural services, we promote the profession. and probably different from the RAI in a way, we are the industrial representatives for employer architects.

**PROF SLOAN:** I think we asked your counterpart in Sydney what the consulting architects - what that means.

**MR GILFILLAN:** That means employers really.

**PROF SLOAN:** Okay.

**MR GILFILLAN:** And it's firms and individuals who employ people. It's not the employees.

**PROF SLOAN:** It's not a term that sort of has currency out there really.

**MR GILFILLAN:** Since 1988 there's been an architects' union. Prior to that there was no union. There was no necessity for an employer separate body. So it's certainly been active recently and its last exercise has been the bringing down of a new award which covers all architectural employees in the whole of Australia.

**PROF SLOAN:** Do you represent the big end of town?

**MR GILFILLAN:** We represent employers and I think the practice of architecture by firms is all over town.

**PROF SLOAN:** But it's going to be larger employers than - - -

**MR GILFILLAN:** No, members of the union - architects are covered by this award no matter who they work for, but firms that are 15 or more have different requirements under the award than firms that are smaller in regard to reducing their staff. There is a different requirement.

**PROF SLOAN:** Is this a federal award?

**MR GILFILLAN:** A federal award. So the terms of reference have now been amplified by you today and we appreciate that we don't regard ourselves as people that play the man; in fact architects usually are trained not to play the man but to extol the virtues of what they're trying to talk about.

**PROF SLOAN:** Good.

**MR GILFILLAN:** We support the commission's reference and we hope that this presentation today summarises ACAA's summary of its position which has been given to you in other states. We see the desirability of consistent regulatory regimes. We would like to see a national regulatory scheme for architects. We know that there are deficiencies in various of the state schemes. We think the Victorian scheme is

probably better than others, and we've looked at all of them. We've recently been reappraised, so we hope we are with it a little better than we were. We do see the need for a regulatory system in regard to international registration.

Moving on to the cost-benefit analysis, we think it's probably essential that the relevant market be defined so that we're dealing with architects and other providers more or less in the same field because it's not our experience that architects and less regulated service providers work evenly as between the fields. For instance, there are simpler residential projects which are handled by the non-architects, as well as architects. We would like to see more architects handling that because we think they do it probably better, but I'll talk about that in a little while. I have already said that some of the existing state and territory legislation is inadequate and we'd like to see that improve with the national system.

Something in your preliminary report which concerns me, that it seems to be inferred that architects are not responsible for safe construction and construction safety, which are two different things. Construction safety is something that you would expect your contracted builder, who is also trained in construction safety, to do something about; safety in construction would be theirs. As far as designing a building to be safe is concerned, then of course it is our concern. We engage engineers of various types, structural, mechanical and electrical engineers, and on large projects they have important roles. On many projects, they are our consultants, so that if they misbehave, then we're in trouble, so we have to be responsible for our consultants. Sometimes our clients prefer to engage consultants as separate consultants and therefore they have their responsibility directly to our client. We prefer - and it is our preference - that consultants are responsible to us. These are on large projects.

**PROF SLOAN:** Sure, but that has become a very mixed model, hasn't it? Increasingly, the architect - not really the head contractor, so to speak.

**MR GILFILLAN:** I would say it's going a bit the other way, but that has been the case at the end of the 80s and the mad dash to build a whole lot of office buildings all over the place. There were project managers who came into the field and the architect had a little design role and after he'd finished the design, it was handed over, but that is happening less, I think. People who have worked for universities or the governments have been regarded as a person who takes the project through from start to finish. That's certainly the way architects are trained.

**PROF SLOAN:** But you did make the point that in a sense it's probably the engineers that know a whole lot more about safety than the architects.

**MR GILFILLAN:** Not safety, no, holding the building up, the structural size of a column to hold the building up is designed by an engineer. An architect in his training is told how to understand how an engineer works and in fact a subject each year is an engineering-type design subject. So basically we can design beams and simple columns so that we understand the system.

**PROF SLOAN:** I mean, it's just an issue of how direct the concern is, and the instrument - it seems to me that if you are concerned about the safety of a building, the profession primarily responsible for that is actually the engineers, not the architects.

**MR GILFILLAN:** If the engineer is our consultant, we, in the end, are responsible and so we don't want to engage an engineer who doesn't do it well.

**PROF SLOAN:** No-one does, do they?

**MR GILFILLAN:** No, but we know which engineers are likely to serve us well.

**PROF SLOAN:** So other parties don't? So, say, the professional head contractors don't know who the good engineers are?

**MR GILFILLAN:** I would say they would; by experience, they would. I mean, if you were engaging an architect and the inference I gain is that the architect does not know about safety, he certainly does, and he's very responsible for the safety. If accidents happen, the first person to be sued is the architect.

**PROF SLOAN:** We have had - including an academic in Western Australia who says that really architects don't know much about safety and the practice exam has got very little about safety, either the safety of buildings or construction safety.

**MR GILFILLAN:** I can assure you safety is part of the course in architecture.

**MR PREST:** Can I give an example? Would that be fair?

**PROF SLOAN:** Yes, no problem.

**MR PREST:** I think site safety on the big projects is very much the concern of the contractors, the sites are highly unionised and it's generally very well run. It's the small sites where it tends to be a bit dodgy. I had a job four or five years ago where we were excavating for foundations in fill, and we were going down about five metres. Our specification called up to have the excavation shored as a safety measure, and this is a standard thing. I got out on site and the excavation was there but there was no shoring. So I said, "Put the shoring in." They said, "Yes, it's over there on the site, all the timber." The next day I had an engineer going out to do an inspection of the excavation and there was still no shoring there when he got there, but he was prepared to go down on the bucket of the excavator to inspect the reinforcing - this is down five metres in unstable ground - and did the inspections. When I heard about this, I really hit the roof. I went out on site - - -

**PROF SLOAN:** Was he injured?

**MR PREST:** He wasn't injured, no, he was fine. He had travelled down and came back up. He was a young guy, but he travelled down and came back up.

**PROF SLOAN:** Well, maybe he knew more than you.

**MR PREST:** Yes. When I got out there, there was still no shoring on the site and in the end I rang up WorkCover and they closed the site down. That was only way to get this contractor to see sense. So it's the small jobs that you can run into a real problem. If I hadn't taken those actions, someone could have died obviously.

**DR BYRON:** I think that illustrates what we were trying to get at, and there's probably a little bit of miscommunication here. I don't think we said or were trying to imply that architects weren't knowledgeable about safety, but we're looking at how well the policy instrument, the regulation, actually addresses the concern.

**MR PREST:** Yes.

**DR BYRON:** Now, if you have a concern, for example, about safety on site, there are things like WorkCover that very effectively provide the right system of incentives and pressures and disciplines, if you like, to make sure that safety is covered. So the responsibility is - there are ways of sheeting it home to those who are in the best position to take the responsibility.

In terms of the structural soundness of a building, if the engineers are actually going to design and sign off on the structural soundness, then it's the engineers whose heads should be on the block if anything goes wrong. I appreciate that in many, perhaps not all cases, the engineer is reporting to the architect as the pinnacle of everything that happens on the site, but they're trying to find policy instruments that are very well targeted to where the risk and the danger is rather than just saying, "We've got reservation of title of architect and therefore all the safety concerns are catered for." That seems to us to be a very, very blunt instrument of addressing either construction safety or the safety of the building after construction. It may have some other merits and features, but as an instrument for ensuring safety it's a very, very blunt and indirect weapon.

**MR PREST:** Yes, but we still have a responsibility. I mean, I've designed dangerous goods stores, for example. If one of those blows up, guess who'll get sued.

**PROF SLOAN:** Yes, but that's got nothing to do with the Architects Acts; that's got to do with the common law.

**MR PREST:** Sure, yes.

**PROF SLOAN:** Which is Neil's point. Really the Architects Acts don't fit in this loop of liability.

**MR GILFILLAN:** I think he would be sued as an architect though, wouldn't he, and he'd lose his registration.

**PROF SLOAN:** He would be sued as a professional. Would he lose his registration?

**MR PREST:** Possibly, yes. I think I'd be regarded as - - -

**PROF SLOAN:** Very few have lost their registration over the years notwithstanding some pretty horrendous actions.

**MR GILFILLAN:** I would regard it as one of the most devastating things in my life, to be ruled out as a - - -

**PROF SLOAN:** That's okay, because the probability is incredibly low of being deregistered, isn't it?

**MR GILFILLAN:** I also sit on the architects tribunal - this in the RAIA, which hears these cases and quite often these cases go before both of us - and - - -

**PROF SLOAN:** Is that efficient, that it should go through both the RAIA and the board?

**MR GILFILLAN:** It really depends. The only thing that the Institute of Architects can do is to put somebody out of the institute, and that's probably not as serious as losing the right to practise as or call yourself an architect.

**PROF SLOAN:** Only call yourself an architect. You can continue to practise as an architect, which presumably has public safety implications.

**MR GILFILLAN:** There would be a query as to why you weren't calling yourself an architect one day having been an architect the day before, I would have thought.

**PROF SLOAN:** There seems to be a hypothesis that the fact that such a small number of architects have been deregistered is the good news because the system is working and people fear deregistration and therefore they don't do anything that would warrant deregistration. Another hypothesis is the system is incredibly soft. It's run by architects for architects, and to take that final step of deregistering is - - -

**MR GILFILLAN:** The regulation board can speak for itself, but I wouldn't have thought that it was just necessarily by architects for architects. I think there are non-architects on it, aren't there?

**PROF SLOAN:** There are a few now on the board in Victoria, but in most of the boards it's absolutely dominated by architects.



**MR GILFILLAN:** I see. Well, I think that ACA would hold the view that we would like to see the public represented on these boards. The national board would be something that we would be all for.

So moving on as regards the safety of sites, we do believe that the current registration practice for architects may not be universally ideal to ensure expertise in current construction techniques, and if this is seen to be a problem we would be happy for additional stringency. One of the things that the ACA does is the award business, which I've spoken about, and consumer protection is a very important part and it may be more in Victoria and less in other states, I don't know. But the consumer protection laws and fair trading have come into many of the contracts that we have in Victoria that are administered by architects and others - these are standard housing, domestic building, contracts - and I think probably these contracts are also in Queensland.

**PROF SLOAN:** So where does that leave the Architects Acts then?

**MR GILFILLAN:** These are registered architects who are administering these contracts of building between and owner and a builder.

**PROF SLOAN:** But you'll find that probably goes through the Building Act and that's for all registered providers.

**MR GILFILLAN:** It does, and the architects also are preparing contracts in that vein.

**PROF SLOAN:** Isn't that then the direct way of dealing with consumer protection issues?

**MR GILFILLAN:** It is. Consumer protection, we believe, is the sort of wrong end of the thing. It certainly has to be done, but we should be dealing with it ahead of the consumer protection requirement. We would prefer the problems not to occur, to be more pre-emptive in our actions.

**PROF SLOAN:** What do you think of the situation where you've got people out there who are bachelor of architecture, they work as architects in the non-legal sense but can't legally call themselves architects? Isn't that confusing?

**MR GILFILLAN:** To whom?

**PROF SLOAN:** To everyone. There are those people, are there not?

**MR PREST:** You're referring to graduates who haven't registered?

**PROF SLOAN:** And who are perhaps many years after graduation. They maybe have become specialised, they work in big architectural firms as architects, but they

have never been registered and it's illegal for them to call themselves architects. Is that right?

**MR GILFILLAN:** That would be happening, and it is possible, I believe, for them to seek registration. If they're well experienced it is possible to seek registration.

**PROF SLOAN:** So you think that situation is okay?

**MR GILFILLAN:** Yes. I see it as very little difference from the role I'm in at the moment, where I'm acting virtually as a lawyer down at the planning list and I'm an architect. I mean, I don't feel I need to be a lawyer.

**PROF SLOAN:** No. It actually probably wouldn't be illegal for you to call yourself a lawyer if you wanted to.

**MR GILFILLAN:** I think it is in Victoria.

**PROF SLOAN:** I think that's not true. You can't call yourself a barrister and solicitor of the Supreme Court of Victoria, because that would be a lie. Lawyer, I think - - -

**MR GILFILLAN:** A lawyer being more a general term, you mean?

**PROF SLOAN:** Yes. You could call yourself an economist if you like. That's not a reserved title, so - - -

**MR GILFILLAN:** No, I wouldn't dare.

**PROF SLOAN:** Probably wouldn't want to. No, I just wonder whether you see that as an anomaly in the arrangements.

**MR GILFILLAN:** I can see in language terms it's an anomaly, but in the way things go it's of no concern.

**PROF SLOAN:** We had one board which actually prosecuted someone because they said they were Joe Bloggs, bachelor of architecture, which was true, but of course architecture is reserved, you see. Is that a silly situation?

**MR GILFILLAN:** That sounds absolutely crazy. You certainly acquire a degree that's called a bachelor of architecture and I don't think anybody can take that away from you.

**PROF SLOAN:** No. What about the derivatives? Do you worry about them, the fact that the derivatives are also legally reserved so the term "architectural" is also a reserved title?

**MR GILFILLAN:** I must say it doesn't worry me particularly one way or the other. I think the word "architect" is important.

**PROF SLOAN:** Would that be your view too, David?

**MR PREST:** I think I'm a bit ambivalent about that one. I don't think it's quite that clear-cut, but of course I think one of the problems about the word "architecture" is it's likely to sort of totally disappear and get taken out by the computer industry, who call themselves software architects, and it means units of computer rather than anything to do with buildings.

**PROF SLOAN:** But you can't object to that, can you?

**MR PREST:** No, I don't, but I'm just saying - - -

**PROF SLOAN:** Or "George Speight, architect of the Fijian coup".

**MR PREST:** Yes.

**PROF SLOAN:** Maybe you won't want to reserve the title for too long.

**MR GILFILLAN:** We think that the safeguard of design and quality of the built environment is something that we would like to stress as architects. I know your report says that safeguards could be put into planning legislation or something like that. There are safeguards in planning legislation, and the administration of that legislation are the likes of me and others at the planning place. I see obviously the work that comes forward by architects and non-architects, and dare I say that the work that seems to comply closer to the requirements of the various legislation or the various acts in planning are people that have been trained as architects.

**PROF SLOAN:** That's a subjective view though, isn't it? I mean, do you think I can drive along the streets of South Yarra and say to myself, "Architect design, non-architect design"? Could I do that, do you think?

**MR GILFILLAN:** I don't know about you, but I could.

**PROF SLOAN:** You're in a privileged position but, I mean, as a member of the public can they do that?

**MR GILFILLAN:** It would depend upon their interest in architecture. Don't ask me; ask a non-architect.

**PROF SLOAN:** Maybe we should go for a walk one day and - - -

**MR PREST:** I think the point that we're making - and we're sympathetic to the arguments about the design and quality of the built environment.

**MR GILFILLAN:** Sorry, I missed the start of that.

**MR PREST:** In the report I think we're actually quite sympathetic to the arguments about the importance of design and quality of the built environment, but it seems to us to be very, very hard to legislate for and to control. As you say, the planning controls is the instrument we have at the moment, which are difficult to implement and far from perfect, but reservation of title I think is probably the least effective and least relevant instrument to address that that I could imagine. Nobody has been able to even hint to me how restrictions on who can call themselves an architect actually do contribute to protection of the quality of the built environment.

I appreciate that there's an issue there, but the proposed solution, reservation of title, to me has got no connection at all. It doesn't address the problem that we're trying to solve, and again it gets back to this, "What are we trying to do? Does the instrument do it?" question, and again the answer is, "Even if this is an issue, that instrument doesn't do it."

**MR GILFILLAN:** You've said that my selection might be subjective but my observation of my colleagues' decisions is similar and they're not architects.

**PROF SLOAN:** No, but Neil's point is this: there is nothing out there, nor is there likely to be, something that says, "You must use a registered architect." So given that, the contribution of an Architects Act, which has quite limited effect anyway, in terms of improving the quality of the built environment, is extraordinarily indirect.

**MR PREST:** Can I say that I think the point Struan is making is that if you're lodging a town planning application, the town planning applications that come to the tribunal, those that are prepared by architects are of a higher quality and therefore more likely to be successful than those that are prepared by non-architects. Is that - - -

**MR GILFILLAN:** Yes.

**MR PREST:** And consequently if you have protection of the title "architect", if you want to have less trouble in getting your town planning permit, if you employ an architect, you may get there more quickly.

**DR BYRON:** You're right. I completely agree with you if you say those who are prepared by specialised competent people are more likely to be approved and more likely to result in good outcomes, yes. The question is actually one step further back, is the relationship between reservation and title and a specialised competent person to do that. That's the nub of the whole issue, that whether reservation of title is sufficient to ensure that all the plans that are prepared are done by people who have the appropriate skills and expertise. There's just a disconnect there.

**MR GILFILLAN:** Well, you've heard the answers to this probably hundreds of times. You've been all around Australia and architects are saying the same thing presumably, but - - -

**PROF SLOAN:** Not quite, actually, interestingly enough. Yes, go on.

**MR GILFILLAN:** The point I'd make is that certainly in the Victorian boom and the multi-unit developments that have occurred over Victoria in the last five years have just been absolutely astonishing, and people have been running to people who call themselves architects or others to do these submissions for them. They didn't necessarily know people, and a lot of them are the first time that they've come before the tribunal, the first time they've ever done anything like a development. They've got a house and they have room in the backyard to put another house so they just dash off to somebody who they think could do it, and if they run by chance to an architect the chances are we think that they'd probably do better. If they run to somebody else who holds himself out as an expert they might do worse. I'm not saying it always happens by any means, but the chances are.

**PROF BYRON:** But surely that's an argument for consumer awareness, for increased information flows.

**MR GILFILLAN:** Right.

**DR BYRON:** And to encourage consumers to look before you write a large cheque, you know, to make a little bit of caveat emptor might be called for. The old cliches like you pay peanuts, you get monkeys, sort of stuff, or good stuff not cheap, cheap stuff not good. Those are all fairly self-evident for most consumers with everything else they do when they're buying a video or a car or whatever. The argument that people should shop around, I think we have no disagreement with that at all.

**MR GILFILLAN:** No, shop around amongst architects, that's a good thing to do, same as doctors and dentists.

**DR BYRON:** Yes, but the question is what information content does it provide that someone has at one stage in their career been registered which meant that they met sort of minimum standards of competency at that time.

**MR GILFILLAN:** Yes.

**DR BYRON:** The example was given to us in Queensland of somebody who's registered and spends the next 15 years driving a taxi, but he's still a registered architect.

**MR GILFILLAN:** Yes.

**DR BYRON:** So there is no guarantee of currency or recency, up to date with latest, you know, CAD design or anything else. In terms of what does it actually

communicate to the prospective consumer about the qualities, the skills, the excellence, the experience, the innovation, you know, the dazzling things that this person has done recently, a certificate of registration communicates almost nothing.

**MR GILFILLAN:** He's reached a standard though.

**PROF SLOAN:** Once upon a time.

**MR GILFILLAN:** Once upon a time, and I wanted to talk a little more about why we think that the training does go on.

**PROF SLOAN:** But it is an interesting reflection. It's a one-off registration.

**MR GILFILLAN:** It is.

**PROF SLOAN:** And therefore that really contains quite a small amount of information. People actually seem to keep their practising certificates till they die, so you've got, you know - there seem to be a lot of geriatrics on the list of registered architects because there doesn't seem to be much incentive to let it lapse. Is that informing the public of anything?

**MR GILFILLAN:** Well, I'm not sure why they would keep it on till they die if they're not practising. But certainly if they're practising, they're getting the experience, presumably keeping themselves up to date, because there's nothing like architecture for keeping yourself up to date because there are so many new ways of doing things and you like to be at the cutting edge of everything you do.

**PROF SLOAN:** Some do, presumably.

**MR GILFILLAN:** Well, if you're going to be successful - - -

**PROF SLOAN:** That information is not in the registration. Yes, if you're successful, exactly. But that's information that the consumer will be accessing.

**MR PREST:** But it provides a basic benchmark, that at a particular point of time, these people had completed a five-year course in architecture, had two years' experience in a qualified architect's office, kept log books and had sat an examination, and they had found some people who would say they were of good character to sign references.

**PROF SLOAN:** Right. So what's a person of bad character then?

**MR PREST:** Presumably someone who can't find someone to sign references for him.

**PROF SLOAN:** There seems to be a legal view that all that stuff is meaningless really; you know, the good character requirement is basically a nonsense. I mean, would you have that bottom line, the legislation here as elsewhere is deficient?

**MR GILFILLAN:** Well, we are advocating a more stringent updating. We can see the advantages of having some updating. It would be a weakness in the present system that there isn't updating. I might say that surprisingly this new award which has been - you know, it's been like pulling teeth to get the award agreed - but it is now agreed, it requires before an architect is - I have the award. It would be quite interesting for you, I think. As a student, you're entitled to be paid on a graduated rate. When you actually graduate, you're entitled to a higher rate which incidentally is 130 per cent of a metal worker or something. That's how a professional is graded.

**PROF SLOAN:** You went along with this? You wanted this award?

**MR GILFILLAN:** We would prefer not have had the award, but the award is an absolute essential in this day and age.

**PROF SLOAN:** Why?

**MR GILFILLAN:** Well, it started off under a - - -

**PROF SLOAN:** What, to respect the terms of competition between architects?

**MR GILFILLAN:** Previous government requirements.

**PROF SLOAN:** But why would the employers want the award?

**MR GILFILLAN:** They didn't want it.

**PROF SLOAN:** Right.

**MR GILFILLAN:** They were very against it but the system requires that the employers actually negotiate, therefore we had to provide a group of people who call themselves an industrial committee and they have to go in to bat. Therefore, you've got to make the best of what you've got.

**PROF SLOAN:** But you sound as though you're happy with the award and having an award?

**MR GILFILLAN:** I'm not in the least happy with it.

**PROF SLOAN:** Right.

**MR GILFILLAN:** In principle I'm happy with the award if we have to have it.

**PROF SLOAN:** What features of the award make you happy?

**MR GILFILLAN:** That before an architect can graduate as between things he has to have training, and I just wanted to read some of the words here:

In the acquisition of competencies leading to admission as a registered architect, the graduate architect must fulfil the minimum requirements for entry to the architectural practice exam -

which you've been talking about. That's the same exam.

There shall be an annual review process. This will include any necessary training which the employee will be expected to undertake in order to fulfil the requirements of the elevated position. The cost of such approved training shall be borne by the employer.

In furtherance of the registered architect's progress toward the acquisition of competency, there shall be an annual review. As part of this, progress for the previous 12 months shall be reviewed and objectives for the next 12 months shall be set.

I won't go on, but the idea is that there be a training program so employee architects are up to the mark.

**PROF SLOAN:** But surely that happens now.

**MR GILFILLAN:** But it's not so structured.

**PROF SLOAN:** Right.

**MR GILFILLAN:** It certainly does happen. I know it happens in some of the bigger offices. I assume it happens elsewhere, I don't know.

**MR PREST:** We try.

**PROF SLOAN:** My guess is that the award will make no difference at all.

**MR PREST:** Well, I suppose deregistration of architects would affect the award because - - -

**PROF SLOAN:** That looks like another complicating piece of regulation which sits rather uneasily with everything else.

**MR GILFILLAN:** Yes, well, it really would affect the - take away the regulation, because those are the marking points that are used in the award and I suppose there would have to be another marking point.



**PROF SLOAN:** Well, we'd better try and get through some of the other bits and pieces.

**MR GILFILLAN:** All right. We will.

**PROF SLOAN:** Okay, that's fine.

**MR GILFILLAN:** So the export of architectural services, I think you've agreed that there's probably - I'm at page 4 - that there are a number of architects who do rely on their registration. Maybe there's an alternative that you've talked about.

**PROF SLOAN:** It was funny that your counterparts in Sydney didn't make much of that at all and they were representatives of large firms who did overseas work who said they'd never been asked whether they were registered and they didn't place much emphasis on that at all.

**MR GILFILLAN:** We did check on it before. I've not been involved in it myself but our colleagues and certainly our chairman here who does work overseas said it was important.

**PROF SLOAN:** Right.

**DR BYRON:** Can you give us some indication of the relative importance vis-a-vis reputation, experience, portfolio - - -

**MR GILFILLAN:** Sorry, the relative experience between each of those?

**DR BYRON:** - - - and of registration? Because I lived in Indonesia for five years before coming to Melbourne and we interviewed architects from all over the world for a \$US15 million headquarters complex and in not one case did we ask any of the architects from anywhere in the world whether or not they had a reservation of title or whether they had a registration in their home country. It simply to us wasn't a relevant criterion. What we wanted to see were examples of their work, to get feedback from happy, satisfied customers and eventually we chose a firm who happened to be an Australian architect.

**MR GILFILLAN:** Spoke the same language.

**DR BYRON:** No, no, the Swedes, the Americans, the Canadians and the Germans that we interviewed also spoke English very well - and the Brits, yes. But the point was that the selection criteria was about their expertise, their skill, their empathy with what we were trying to put up, understanding of the brief and so on. Whether or not the firm or the individuals within the firm had a statutory reservation in any country in the world simply never came up in any of the discussions that we'd held with any of the others. So I actually phoned that architect two weeks ago and asked him how many times he has been asked about, you know, "Are you registered in the stage of so and so," and he said in his experience of working all over South-East Asia, doing

hotels, resorts and sporting clubs' tenders and so on, he'd never yet been asked. And yet a number of people are telling us in their hearings that it is the absolute pillar of being able to export services, particularly to Asia. Having conceded that the state registration has significant deficiencies as a piece of apparatus, do you then go on and say, "That's the sole basis on which we are able to export to Asia and if you take that away, no Australian firm will ever get any export business?" I mean, it stretches my credibility a little bit.

**MR GILFILLAN:** That does sound a bit stretched, but are they saying that?

**MR PREST:** I think there's one base upon it. If you are entering in any international competition, the minimum requirement is that you are registered. So that's where you - for an Australian - young graduates for an example, they cannot enter into international competitions if they're not registered. They're always keen, if they want to go into international competitions, to get registration, and that requirement is put on by whoever is running the competition.

**PROF SLOAN:** Sometimes it is. There was one case we read about where a student won the competition.

**MR PREST:** Yes, he's probably - - -

**PROF SLOAN:** Not a registered architect.

**MR PREST:** Yes, but he had a chat to a registered architect and put it in under his name.

**PROF SLOAN:** I don't know about that. No, I think it's an interesting point. It seems to me it's an easy thing to say, and of course there are some counter-examples, for example, the accountants, Australian accountants, Australian engineers. They do a lot of work overseas and in South-East Asia and they of course don't have statutory registration, so it's clearly not a sine qua non of doing work in those countries. I just think we haven't had that empirically justified or demonstrated. I mean, you do say in your submission that there may be alternative systems.

**MR GILFILLAN:** They were your words, I think.

**PROF SLOAN:** But you said you agreed.

**MR GILFILLAN:** We do agree there may be, yes.

**PROF SLOAN:** We have dealt with the spillovers, haven't we, and the structural dependencies. I know Neil wants to ask this question but maybe I will jump in, partly because I honestly have no idea how you're going to get a national statutory system and I mean, you said you weren't a lawyer, but the truth is that constitutionally, there really is no head of power under which the federal government could legislate to provide a national Architects Act, so we're into the realms of the

practicality of this. Now, you might get all the states, although I find this impossible to believe, but let's say you get all the states to refer the powers to the Commonwealth, then they might do something, although who would be the relevant minister?

**MR GILFILLAN:** The treasurer.

**PROF SLOAN:** The treasurer, so the treasurer is going to be interested in being the minister for architecture?

**MR GILFILLAN:** He is.

**PROF SLOAN:** Right, okay. I come from a small state. I mean, the idea that South Australia and Western Australia would cede their powers on this seems absolutely extraordinary, but leave that aside. I suppose if you got the big states to cede their powers, that would be useful. If you have a choice between the continuation of a ramshackle, state based, inadequate set of Architects Acts and going to, quite quickly, an effective national system of self-regulation, a la the engineers, a la the accountants, which one do you choose?

**MR PREST:** The other possibility is to handle them in the same way as the building regulations are handled, where you've got an Australian model, building regulations, and then each of the states base their actual regulations on it, so there's no ceding of state powers, you've just got the same - - -

**PROF SLOAN:** So you just become another building service provider like the others and you get rid of the Architects Acts?

**MR PREST:** No, I wasn't saying that. I was giving the example of the building regulations as what is state based legislation, but they're common in all of the states, so the states are running them but - - -

**PROF SLOAN:** So that's a sort of harmonised model.

**MR PREST:** They are harmonised. They have got together and actually agreed, you know, how wide an escape door should be, this sort of difficult decision.

**PROF SLOAN:** If you had those choices, would you stick with the - I mean, the thing is, everyone seems to have been trying to change the Architects Acts for ages now and in every state we go to, they say, "The minister changed," or this and that. There doesn't seem to be an awfully big constituency to change the Architects Acts.

**MR GILFILLAN:** I think there's a bit of reluctance with this commission going on.

**PROF SLOAN:** Yes, but they have been trying for ages, since 92, to get it changed. We've only been going for the past six months.

**MR GILFILLAN:** Well, in the last six months there has been a reluctance anyway. But I think other states - have you looked at Victoria?

**PROF SLOAN:** Yes.

**MR GILFILLAN:** Do you see - I mean, the principle you would think was wrong, but in the actual detail, are you unhappy with it?

**PROF SLOAN:** No, I mean, there were some minor modifications for the Victorian act but not of a substantive nature.

**MR GILFILLAN:** The principle is still wrong in your - - -

**PROF SLOAN:** No, I'm not saying - I mean, that's what we have to conclude, what is the more effective system, and I'm just asking you to choose.

**MR GILFILLAN:** All right.

**PROF SLOAN:** You may choose to have a continuation of the fragmented state systems.

**DR BYRON:** I'll try and make it easier for you perhaps. Rather than choose, you say you want a national regulatory system. Which of those two adjectives is more important, that it should be a national system or that it should be a legislative based system?

**MR GILFILLAN:** And could be in states, you mean? The second system was by states - - -

**DR BYRON:** Yes.

**MR GILFILLAN:** I suppose a better state system if you can't get a national system would be our preference, would it not?

**MR PREST:** Yes, I think our grading would be one national, two state, three self-regulation.

**MR GILFILLAN:** Self-regulation is not easy, is it?

**PROF SLOAN:** No.

**MR GILFILLAN:** It does raise conflict of interest problems, doesn't it?

**DR BYRON:** We have been looking at the way the engineers, the accountants, the landscape architects, the urban planners, the financial planners, the building surveyors and various other groups have all managed to do this. I think the

engineers, for example, with their national register, strikes me as a very intelligent response to the review by the Trade Practices Commission in 92 when the writing was quite clearly on the wall that the system they had had prior to that wouldn't be compliant with competition policy. They then created a national system which is compliant with national competition policy that does everything that the clients, the firms, the individual engineers want to do. It seems to be working very well. They are ruthlessly culling out people that they consider not good enough to be on their membership in order to protect the reputation of their brand. They're looking at who are the alternative accreditors of engineers and how do we ensure that our register is the most highly respected, and that's one of the reasons why they're fairly ruthless in culling out any bad apples. The people from the Development Industry Accreditation Society told us in Adelaide that if they accredit somebody who turns out to be not up to standard, then they as the accreditors have their neck on the chopping block and there are very serious financial and legal consequences for them and so they are very, very vigilant in their accreditation process.

What I see in all of those - and I could do the same thing with the urban planners and the landscape architects and the financial planners and the CPAs, accountants and so on - the point is that there's a lot of emphasis on the quality of the accreditation and the information content and the responsibility. That's what we don't do in the state registration boards. If the state boards put someone on the register and it turns out in a couple of years' time that the person is found in a court to have been incompetent, there is nothing sheeted back to the people who put him on the register. The registration board doesn't have to take any accountability for having put on the register somebody who subsequently is found to be incompetent.

**MR GILFILLAN:** What does the CPA do?

**MR PREST:** The CPA?

**MR GILFILLAN:** Yes, if they find somebody who is incompetent - - -

**PROF SLOAN:** They would be expelled.

**MR GILFILLAN:** They would be expelled?

**PROF SLOAN:** Yes.

**MR GILFILLAN:** I would suggest that happens to the architect too, doesn't it? The architect would be expelled as well, wouldn't he?

**PROF SLOAN:** There doesn't seem to be any necessary loop in that. It depends on whether a complaint is then lodged. We had a case - I mean, you probably hate these - but some disgruntled clients have come along to our inquiry.

**MR GILFILLAN:** We're both senior counsellors of the institute. We have phone calls the whole time from people who are unhappy.

**PROF SLOAN:** Yes, but they have come along to us. He was someone who - you know, there was a big court case. The thing had to be demolished. The builder was deregistered or the builder lost his licence and he then actually did take it to the Architects Board of New South Wales and the guy was given a rap over the knuckles. The structure had to be demolished. The thing is, if you think of - - -

**MR GILFILLAN:** There are bad eggs in every basket, I'm afraid.

**PROF SLOAN:** Yes, that's the point, but this is - - -

**DR BYRON:** But we're looking for a system that rigorously culls them out.

**PROF SLOAN:** Not much public confidence in - I mean, this fellow - which was bad luck I think for everyone involved or the architects involved - was an academic and he was a very bright man and he wouldn't let it go. But the guy was not deregistered, notwithstanding the fact that the building had had to be pulled down.

**MR GILFILLAN:** I certainly don't want to say wrong is right, that's for sure.

**PROF SLOAN:** No. But you see, from the public's point of view, this might look like a cosy club - you know, it's run by architects for architects to protect architects.

**MR GILFILLAN:** That's what we think they might say about self-regulation.

**PROF SLOAN:** Right. Whereas we can say - like in the case of the financial planners and it goes back to that point about promoting the brand - the truth is, if we went out into Spring Street and asked people do they know about the Architects Board, they'd go, "What?" whereas - you know, there has to be some system of providing the public with information. In fact, self-regulation creates that strong integrity of brand and then a communication system. It is a case where it's probably true that it is actually also in the public interest. You've got a little bit on self-regulation. It might be nice to sort of think that one through a bit more. You wouldn't be critical of the engineering profession in this country, would you?

**MR GILFILLAN:** Not always.

**PROF SLOAN:** You wouldn't be critical of the accountancy profession, would you?

**MR PREST:** We have on occasions, I think.

**PROF SLOAN:** They might have been critical of you - but it can quite well. Do you want to give some time for Ainsley to come in?

**MR GILFILLAN:** Yes, I think we're just about at Ainsley's now, really, the cost benefit.

**PROF SLOAN:** Okay. We've read your piece, Ainsley, but would you like to make some points on that?

**MR JOLLY:** I think there's a few points I'd like to make on issues of principle in relation to that. The first problem is to know what one is comparing. We have a particular system of registration, and what I was trying to do was, in my own thinking on the subject, to look at perhaps a couple of base scenarios that you could compare that with. One was the situation where there was no regulation and no hypotheses about any adjustments to an unregulated situation. It was in that context that the paper identified some points. I'll make some points of principle on that a bit later. That was one case.

The second case was to make some comparisons between alternative forms of registration and indeed, that sort of approach could be taken to the self-regulation case too, and one can look at evolution of either different regulatory or self-regulatory structures and come up with different effects. It seems to me that one of the problems in all of this is that very often one is concluding that there are net costs or net benefits because one is comparing the current situation with hypothetical future developments that may or may not happen. The critical policy issue is to grab hold of the best framework for securing net benefits, but it's a little bit difficult to conclude here and now in a static sense with nothing else changing, that the situation is a net cost one because the alternative here and now is no certification and a time lag before either alternative legislation or self-regulatory systems develop and they in turn have to be analysed for their impact. That was the first point I was going to make.

**PROF SLOAN:** That two-year notification period, that is with that in mind, designed to enable the features of self-regulation which are perhaps underdeveloped or missing at the moment, so we didn't anticipate an overnight - - -

**MR JOLLY:** There is a question there of empirical assessments of how long a time would be and how much agreement can be secured in terms of the best methods of either alternative legislation or self-regulation. These are issues that are not yet clearly scoped in the material that I've been given to look at, but they are the critical issues. It may be that if outcomes are sought, either in terms of securing a better legislative model or a better self-regulatory model, those ought to be tested by a process because that is the critical question.

The second point I'd make in terms of primary instruments is again a point of principle, that I agree in a policy sense that you're usually looking for the most effective instrument to secure a particular gain, but it's also the case that supplementary environmental factors that are influenced by other instruments can often be of critical importance to make a primary instrument work. For example, just totally off this topic, in the follow-up to the Asian crisis and resolution, people were jumping up and down about new bankruptcy legislation and that indeed is a primary

instrument that's very important in dealing with bad debt resolution, but the understanding has gradually grown that there's a whole series of environmental factors that are also important and that if you get those right, you probably don't even need the bankruptcy legislation.

**PROF SLOAN:** What examples would they be?

**MR JOLLY:** Basically, for example, in the financial area, you are looking at a combination of improved information flow so that there is a more market-influenced assessment of the potential risk on lending. That's one example. There's training frameworks to secure those ends. All of those are better because they pre-empt the situation in which a large percentage of loans are going bust because proper risk analysis is not done. Places where there is satisfactory bankruptcy legislation, that's usually a backstop. The thing that makes the system work is the risk analysis is done before - - -

**PROF SLOAN:** I hear that but I can't see where the statutory registration of architects would be seen as an environmental policy.

**MR JOLLY:** Can I come back to this one? For example, in most of the check lists of benefits the argument is presented that it's not a primary instrument and I think that one would accept that in each and every case. But some sort of certification or framework which relates in some way to standards of performance within the architectural profession does have some relevance to making those primary instruments work. So for example if we have in the case of safety situations a primary responsibility in the sense of legislation, but in practice what makes for safe constructions and safe work practices is a shared understanding of a situation and skilled and well-trained practitioners working together, not the legislation. The legislation is a backstop. It's always important to have the right legislation in place but if you have a framework whereby a profession is encouraged to take on a fairly full role, it can contribute to that process. So even though it's not designed as a primary instrument for that, it's - - -

**PROF SLOAN:** I hear what you say, but the truth is that the duty of care applies equally to architects and non-architects. There's absolutely no greater duty of care just because someone is an architect than to a non-architect.

**MR JOLLY:** I'm not suggesting that there's not that shared duty of care but the fact is that if you have particular standards in a profession, then that's going to have a wider impact, and there have been empirical examples of how that might occur.

**PROF SLOAN:** Well, I don't think there have been good examples actually. I think there's a complete paucity of data on that. I mean, it's something that - - -

**MR JOLLY:** There's a paucity of data on a lot of things connected with this obviously.



**PROF SLOAN:** Yes, there are, that's true.

**MR JOLLY:** But I think the examples indicate the nature of the intermix between professions and how architects' intervention can secure better outcomes. But there's also the broader point, that you're better off surely in a system in which you're not fully relying on the protection of legislation, that you've got professionals working with some sort of shared knowledge of and reinforcing each other in issues like safety.

**PROF SLOAN:** Why wouldn't that be achieved through self-regulation? Because you've got people who are registered architects who may be driving taxis.

**DR BYRON:** If we come back to the point that you make about - - -

**MR GILFILLAN:** A very fine group of people, I imagine.

**DR BYRON:** - - - some system of accreditation and certification is essential, I think your words were just then, and I can go along with that and obviously a whole system works better if you've got more competent and more highly skilled, better people who understand each other etcetera. The key issue I think is whether that system of accreditation and certification has to be statutory or whether a non-statutory system of accreditation and certification such as the National Register of Professional Engineers can do all of that and more and better without having any of the anti-competitive elements that exist in the current Architects Acts. So we're not saying there should be no accreditation, that everybody is equal. We're saying that there needs to be a much better system of differentiating the brilliant from the average to the substandard to the absolutely terrible in terms of consumer protection and everything else. The current reservation of title and statutory regulation doesn't do that. So what we're after is a better, a more informative system of certification and accreditation which is entirely consistent with what you were just arguing for. We just don't think it needs to be statutory-based.

**MR JOLLY:** I think that you've got to go from occupation to occupation to see what the tolerance of the market is to the alternative form of statutory or non-statutory regulation or accreditation. People working in the area can answer that better than I can. In some occupations, it's difficult - there's no historical background of this; in others there has been. If you were to replace that with self-regulation, you've got to look at a method of persuading the wider market in which the profession is operating that the change is for the better and that requires time and expense. I think that that's been pointed out that perhaps a two-year thing is inadequate in that regard.

**DR BYRON:** Could I come back and ask Mr Gilfillan about that same point because in some of the other hearings when we've asked how come the self-regulation model of the engineers works fine, including for export of services, international, but it couldn't possibly work for architects? One of the answers we were given is that, "Because engineering is so rigorous and strict that anybody that

wasn't really, really competent would be caught out in the first five minutes," thereby implying that if I were to hang up my shingle tomorrow in an unregulated world as an architect, I could get away with it. I, who have no training, no skills, no competence, who has never designed anything in my life before, don't imagine that I would be able to pass myself off as an architect any more easily than I could pass myself off as a structural engineer or a hydraulic engineer.

**MR GILFILLAN:** In the unregulated world, you're saying?

**DR BYRON:** Yes. People would ask me my background and my experience. I have none.

**MR GILFILLAN:** Probably having no background, you wouldn't want to, but there are people who have some background, have done perhaps their first year or something at uni and have in fact set themselves up in some sort of a design arrangement and who haven't really got the background or experience to carry through what's expected of a registered architect. There are people around, and you hear of them having been at the registration board and been called to task about it.

**PROF SLOAN:** Can I just say, as we go to your submission, I must admit I hadn't much thought about competition against imports. I mean, if that's true, we'd better be mindful because we couldn't possibly have a certification system which is designed to protect architects against competition from imports, because that would be a non-tariff barrier, wouldn't it, against WTO rules? We wouldn't like that, would we, Ainsley?

**MR JOLLY:** I'm not aware of the empirical situation in terms of the tie-in with registration, but I am aware that, because of other work I've done recently with some colleagues on building a construction, not only are exports of architecture services rising quite rapidly from Australia but imports are. But there have been no statistics on these, as you found out, for some years.

**PROF SLOAN:** Should we be worried about that?

**MR JOLLY:** No, not at all. The point that I just raise is that what's happening at the big project end is alliances are developing on a global basis between corporations and architects. I'm not aware of the basis of that and I'm not aware of how important the issue of registration is or not, but it's an issue that needs to be looked at, an empirical issue of how that pattern of choices, the decisions, are made and whether or not issues of certification and registration or other forms of regulation are important, accrediting architectural practices, both on global markets and as against global competition.

**PROF SLOAN:** I think we go through some bodgie process of giving people honorary registration and stuff, world-famous architects who come and work here.

**MR JOLLY:** Yes, well, I'm not sure whether that is or isn't sufficient. That was the point that I wanted to make.

**DR BYRON:** The point of globalisation I think is a very interesting one because we had a number of examples in the hearings, too, of a Melbourne firm lands a contract to design something in Sweden or whatever and then you can subcontract elements of that to people in Pakistan or Bangladesh who will do stuff on the computer for \$1 an hour and email it back to you and then you email it to the client. In that globalised world of e-commerce including e-architecture, if I can coin that, what exactly is the relevance of not just national but even state-based regulation if it's moving towards these sort of global alliances that Ainsley was just talking about? You know, when you actually get some documentation and plans and so on, it may not have actually been produced - it may be the responsibility of and signed off by a member of the firm of the Melbourne architects - but a lot of the components of that could have been outsourced just like the components of a Holden car might have come from Malaysia or Bavaria or whatever.

**MR JOLLY:** Can I just make a comment about an interview that I did, not related to this work, about a few weeks ago to an architectural practice who's doing a lot of corporate HQ design work internationally? They are making strong use of computer technology to subcontract - I don't think they're doing it - with agents in Pakistan. But they are subcontracting and they're breaking jobs down so they can minimise cost. But they said the process of globalisation has placed an increased premium on the skills and reputation of the key principals in the company and they have to spend more time that they thought they would have to in cementing contracts, despite all the backup that they get, which is an interesting point.

**PROF SLOAN:** We went to some firms early on in this inquiry and we've heard about this, that you basically subcontract. A lot of what would have been work done by architects here in Australia previously is now sent off to probably architectural draftspeople in - well, Thailand seems to be quite a common source. I was saying to this big firm, "Of course, you don't do that," and they said, "Yes, we do that." So here we've got some ramshackle, state-based system where you're a registered architect of Tasmania and you've got all these things happening where three-quarters of the work is not even being done in Australia.

**MR JOLLY:** But the responsibility is probably even more firmly based at the top in that situation.

**PROF SLOAN:** Yes. The idea is that in the past that the public who said, "I could come and engage you as someone and I'd feel that you were doing the work or at least a large measure of the work."

**MR GILFILLAN:** It's like getting the car repaired, when you take your Rolls Royce down and the apprentice fixes it. But it's still the responsibility of the boss, isn't it?

**MR JOLLY:** And they have to make systems work. I mean, that's where the market comes in. They ultimately come a cropper and lose their client. But the point I'm making is that whilst you can break down complex jobs into a whole economics of service that's increasingly based on that, you actually have increased responsibility at the top level and it may be it's at that level that the major original design elements or what-have-you are sold, and then they're executed on the way down by subcontracting - - -

**PROF SLOAN:** But of course the way the registration system works hasn't really responded at all to that. I mean, it remains the same. Let me ask you another question, Ainsley. If you look at the history of the architect acts, the architect acts came about because the architects pressured governments to pass them and they don't mention consumer protection - or the Victorian one was amended, but normally the object of the act is to regulate the architectural profession. So it's hard to get too excited about them as an economist. So they were there at the behest of the profession presumably for the protection of the profession. So if they didn't exist, would you be pushing for them now? There seems to be a case, you know, they're there, let's keep them, but let's think they're not there.

**MR JOLLY:** It gets back to my original remark. This is a fairly difficult issue to resolve without having some fairly clear models of alternative either regulation or self-regulation. We're talking very hypothetically. I mean, obviously you could answer that if we didn't have those particular pieces of legislation, we'd either have other legislation or we'd have a system of self-regulation. That would be inevitable. But what models would there be?

**PROF SLOAN:** But I don't think you'd be running over the hot bricks to put in this kind of act, would you?

**MR JOLLY:** If you designed it from the start, you might be trying to more directly reinforce some of the positive benefits that have been alluded to, that's true, and undoubtedly that's an issue that will - - -

**PROF SLOAN:** Can I just finish by going back to one of the suggestions which seems to be emerging, is that the way to go about this issue is to put the architects into the building acts and to have them along the list of other building service providers? What's your view on that?

**MR GILFILLAN:** This is in the state act, you mean?

**PROF SLOAN:** Yes.

**MR GILFILLAN:** It's been thought about. It's the second stop, as far as we're concerned.

**PROF SLOAN:** Competency basis, isn't it?

**MR GILFILLAN:** If it has to happen, it has to happen.

**PROF SLOAN:** All right, thanks very much for your contribution and the thought you've put into your submission.

**MR GILFILLAN:** Thank you, Madam Chair, for hearing us out. Thank you very much.

**PROF SLOAN:** I now call Col Bandy to the stand, as it were. If you could give us your name and your association for the purpose of transcript. Thanks very much for coming along. Col, just remind me, is this what we've got or is this an addition?

**MR BANDY:** I faxed through a draft on Friday I think and this is I guess expanded and rewritten. I've spent about a week, week and a half, fiddling with this, I guess. Sorry, Col Bandy is my name. I'm an architect and I practise in Melbourne as Col Bandy Pty Ltd, Architects.

**PROF SLOAN:** Right.

**MR BANDY:** It's a small residential practice. I employ five architects plus myself and a secretary.

**PROF SLOAN:** Who are your competitors, other architect or building designers?

**MR BANDY:** Absolutely - well, I don't think I really have competitors.

**PROF SLOAN:** Good, you've got a monopoly.

**MR BANDY:** No, well, people who choose to use us would consider us against other architects. But conceptually people make a choice to use our practice to do their residential work and their decision is quite an intense decision.

**PROF SLOAN:** So people assess a lot of information before they make their decision?

**MR BANDY:** Certainly, yes.

**PROF SLOAN:** What kind of information do they assess?

**MR BANDY:** The work that we do. People walk through our door by reputation.

**PROF SLOAN:** Word-of-mouth?

**MR BANDY:** By word-of-mouth. I was sitting there in the chair thinking how proud I was the day that I received registration. I grew up in West Footscray, I'm not a silver-tongue. This profession has treated me very well and we do private residential work. We're a very unusual practice. In reading the Productivity Commission report, it suggests that the sorts of people who we deal with, some of which are silver-tongues and lots of others that aren't, that come from the similar sort of background that I come from, are least advantaged by the current system. I guess my concern to be involved in this was I in fact think that that isn't the case. I think that they're the ones who in fact are perhaps most advantaged by the system and some of the things that I've written here are really suggesting it from that point of view. I'm also a little unusual in that I don't have a qualification. I'm a registered architect. I in

fact finished all but one subject of an architecture course and I obtained registration by applying to the registration board. I gather in reading the Productivity Commission report that in fact you can still do that, seven years of practice and you can apply to the board for registration.

**PROF SLOAN:** You're a rare bird.

**MR BANDY:** I am a rare bird perhaps and if - my CV I've attached I've been quite successful in my design reputation, winning public competitions where registration as an architect was critical to my involvement in those competitions and nobody asks me what my qualification is because I've got a shingle on the board that says I'm an architect. The people that come to my practice know all that and they know some of the currency of my work or if they happen to have got it by word-of-mouth, they'll come in and we'll show them some slides of some of our work or take them to see some buildings. So it's just one of the little pieces of information but I think it's quite a crucial piece of information for the way in which certainly as a young architect my practice has evolved. I also have a daughter who studied one year of arts/science at Melbourne Uni and then by a great surprise decided to do architecture - she's now in her second year of architecture at Deakin - and if she could call herself an architect by doing two years of drafting I'd say, "Go and do drafting, don't worry about it. What's the point of doing a five-year course?"

**PROF SLOAN:** Do you really believe that? So you're saying in fact you don't need to do it?

**MR BANDY:** I think that when Dr Byron said there, "Anybody could put up a shingle," I in fact think that anybody can put up a shingle and call themselves a building designer or an architect, if there was no restriction to an architect, to design buildings. Most of us have some skills to arrange, particularly in the area of the work that I work in, our houses. They can go to somebody, and by legislation in Victoria they must have the drawings produced by somebody who is certified to produce those drawings, so they can design their building, call themselves an architect, operate just a straight design service.

**PROF SLOAN:** But I find that amazing, what you're saying. First of all, we've heard a lot of people around Australia - this is our last stop - that seemed to decide to become architects when they were 10 or five. Now, they're not doing that because they know about the Victorian architect registration board and registered architecture. They're doing that because it is a vocation. But what you're saying is that you don't really need to do those years which is an amazing admission, isn't it? It's just a waste time, is it?

**MR BANDY:** I did it because a woodwork teacher suggested I might be good at it.

**PROF SLOAN:** But you didn't know about the registration system, did you?

**MR BANDY:** But I was very proud - I think that obtaining an education or a qualification is something that is a huge motivator for all kids and there is - if one does two years of an architectural drafting course and then can put up a shingle at number 4 Upton Road next to me and my daughter goes there and does five years of an architecture course and put up a shingle - architect - at 4 Upton Road next door - - -

**DR BYRON:** The reason you should do it is because, assuming that the degree is worth having, is that she would be better, people would look at the two and would decide to go to her. But to answer your question about motivations, the reason that I studied at university for nine years wasn't because I wanted a particular piece of paper at the end. There were a whole lot of things that I was motivated to find out and I wanted to be able to do the job as well as I possibly could. I could have stopped at being a street sweeper but I wanted to go a little further than that, okay.

**MR BANDY:** I didn't. I don't think I knew what architecture was until I had worked within the profession with quite a good architect to start to see what real buildings were. My background gave me no - I was doing a drafting course as far as conceptually - and it's a long time ago. But I actually - - -

**PROF SLOAN:** I find what you say poignant, but dare I say, I'm not sure we have an Architects Act so people can feel proud. A few of us sitting here are economists. I felt proud when I finished my degrees but it wasn't because of the law of any statutory registration and I don't require that. In fact, anyone can call themselves an economist and I honestly don't care because it's not going to take anyone more than about five minutes to establish they know nothing and I know a lot. So I'm surprised - - -

**MR BANDY:** Architecture is - - -

**PROF SLOAN:** Architecture is special, is it?

**MR BANDY:** Well, there is, in the area that I work, in the Productivity Commission's report, five to 10 per cent of private domestic buildings are done by architects. People choose their service provider not because they've got the name "architect". Clearly they choose it for a whole lot of other reasons. But I suspect that it is more difficult for those practices, and they are by and large small practices - ours is unusual that it's relatively large for doing that sort of work - and it's suggested that if we need two years so it won't be confusing, so somebody can call themselves a chartered architect and somebody else can call themselves an architect. I don't understand how you explain the difference between the two.

**PROF SLOAN:** Well, they have that in New South Wales as a matter of fact already.

**MR BANDY:** So in New South Wales, anybody can call themselves an architect?



**PROF SLOAN:** No, no, they have two layers of architects, yes.

**MR BANDY:** But what I'm saying is that what this suggests is that anybody can call themselves an architect and somebody comes into my door and they say, "Well, I've just been to see the architect down the road. He's an architect and you're a chartered architect. What's the difference?" What's the difference between building designer and architect?

**PROF SLOAN:** Well, anyone can call themselves a doctor for example. In fact, for medically trained people, the term "doctor" is actually just a courtesy title, it's nothing more. So is that confusing? The point is that by and large, occupational titles are not legally reserved and the world seems to get on quite swimmingly. So I just wanted to know why architecture is so special.

**MR BANDY:** But I in fact don't - there is a system in place that costs the community nothing basically. It costs the architect - which suggests that maybe the cost to the architect is high I think - but it costs the architect five years of education, two years of practice, a practice exam and a small registration fee to have the right or opportunity to use a simple term "architect" that described that background. I don't put weights that that solves all of the other issues of the community. I don't think any architect would expect that that registration solves all of those bigger issues. It just gives that little piece of information that has come through that process at no cost to the community. It doesn't stop anybody, the butcher, the baker, the candlestick maker, from practising architecture.

**PROF SLOAN:** So do your clients ring up the Architects Registration Board, do you think?

**MR BANDY:** I have had one client take me to the Architects Registration Board.

**PROF SLOAN:** One?

**MR BANDY:** And I wasn't deregistered, I wasn't reprimanded.

**PROF SLOAN:** Can I just - do they ring up the board if they're thinking of using you? Do you think they ring up the board to - - -

**MR BANDY:** Nobody asks the question. It's irrelevant to me. I'm old and boring and achieve - - -

**DR BYRON:** You're known by your reputation.

**MR BANDY:** - - - a volume of work that is - - -

**PROF SLOAN:** So it's not really providing information to your clients?

**MR BANDY:** No, but it was vitally important when I was starting, I believe. It was an important trigger to build some confidence in my ability to produce buildings. I think that I've written some words about - the corporate - on page 6, and I in fact was hoping I might read this thing, I suppose.

**PROF SLOAN:** It would have taken too long, Col.

**MR BANDY:** It's only about 15 minutes, I timed it last night. It's taken - but the corporate board that's making the \$5 billion or the \$5 million or the \$1 million building is expert. By and large, they've got all the skills that it's irrelevant whether they're an architect or not.

**PROF SLOAN:** Yes, well, you don't have to bother protecting them.

**MR BANDY:** The government body similarly, they've got expertise that allows them to not worry about it. The tradesmen know all about it because they're in fact used to regulation and registration and they know the difference between the two. If you ask the new home seeker that's a professional person, by and large they know. They've been to university or they're around the traps enough to know all the system. But you ask the non-professional who hasn't been through it; this person may not understand the difference between a building designer and an architect and most times they'll refer to their draftsperson as their architect. My experience is that this is almost always true, that is, they'd like to think their building is being designed by an architect.

This seems to me to support the notion that there is some value in identifying formally those people who have committed to the rigours of that profession. If this person is casting the net wide and wishes to explore all of the options beyond the cost of service, then it is useful for them to be able to distinguish between potential consultants. Try and describe the difference between "architect" and "chartered architect" in 100 words or less to somebody who in fact doesn't know the difference already. It shall be an impossible task. To describe the difference between "building designer" and "architect" is really simple - education and registration. It doesn't give you any more skills perhaps - go and look at their work, but it just says that this person completed this background at some stage in their lives. There is no need to describe the conceptual difference between the work they are permitted to do, because there is no restriction to the practice of building design. Your local butcher or the fairy godmother is permitted to design buildings.

**PROF SLOAN:** Is that fairy godmother for free? You raise an important point, that we've got to figure out where the market failure lies, and as you say, the corporate client, we're not going to worry about them; the government, we'd probably - although sometimes you worry about the government, but the government you're not going to worry about; the savvy private individual client you're not going to worry about. I just wonder if this goes back to our point about it being such an indirect instrument. If you are truly worried about them, given that they probably aren't even going to be aware of the information - and I think you've got to be careful when

they're saying that these people will describe their building designer as an architect. That's because "architecture" has a kind of colloquial meaning that a lot of people attach to. I know it has a legal meaning too, but I'm not sure you're going to stamp that out. That's the language people use.

**MR BANDY:** Yes, and I don't have a problem with them talking about the architecture of the Web. It seems to me that even more reinforces conceptually an understanding within the community of the term.

**PROF SLOAN:** But this is of course with the current system you're telling me this is a problem, so I mean, if this is a problem now, why would eliminating the system really make much difference?

**MR BANDY:** I'm suggesting that this is an advantage to those people who least understand the differences. If somebody comes to me to say, "I've been thinking of going to an architect and I've been to the bloke down the road and he calls himself a drafting service. What's the difference between you and him?" it's easy to say.

**PROF SLOAN:** So you can puff out your chest and say, "He's not a registered architect"?

**MR BANDY:** No, what matters, particularly if you're in this small-scale area, is the quality of the work you're doing and your reputation. But what also matters, to get to the position where you are when you're in your mid-50s and having done this work for a long time, is at the time that you are young and establishing those credibilities - I think it is a really important aspect of that work. I have had two drafting students, architectural draftsman, who have come to my office. I have a lot of students through my office, a lot of young architects through my office, not many drafting students, but I've had two people who have come to the office and have gone on to complete architectural courses because they can see the value of that further education in the process.

**PROF SLOAN:** I think that's our point. They can see the value of the further education.

**MR BANDY:** It's the same as you - - -

**PROF SLOAN:** It's the sort of issue that economists talk about, "Is education just a screening device or does it actually impart real knowledge, real capability?" You can't tell me that it doesn't do the latter.

**MR BANDY:** But I can also tell you from West Footscray, to become an architect - - -

**PROF SLOAN:** If it's not, I'm going to write off to some American university for a degree.

**MR BANDY:** - - - and not just - you know, it was something really bloody special - excuse - and I am not dismissive of that striving for excellence or striving for that position as being something that just should be swept under the carpet. I suspect I wasted a week of my life mucking about, trying to write words.

**PROF SLOAN:** Not at all, Col.

**MR BANDY:** But I haven't done it because I think it's a frivolous exercise and I haven't done it because there's not really any self-interest for me - there might be for my daughter if she continues to complete the course. But I actually think that it matters a hell of a lot to those students that are undertaking quite a long discipline, the pursuit of architecture. You can never legislate for excellence within the building environment. The community by and large doesn't want excellence. Its issues are critical to whether it can afford it, how economical it is, how quickly it will happen. The issues that the architectural profession are probably concerned about may be self-indulgent in some respects but they're part of a very important part of the community's endeavour.

The houses that all people build now, whether they're done by drafting services or by architects, are much better than they were when I was a kid and much better than was done when I was a young graduate, and that's because of, I think, the serious pursuit of architecture. It will probably continue. You've got to create another label - I just don't see the logic of creating another label. By and large, 60 per cent of the people who work in architecture come from little practices; a big percentage of them are one and two-person bands. Where is the resource? They're competing with drafting services who, under this sort of scenario, a change of name, potentially can call themselves an architect, so they don't have a brand name problem. But for some reason, this group of little practitioners that are trying to do your and my house at an economical rate that makes sense to people's disposable incomes, then somehow have got to create another brand name. It's going to be easy for the Denton Corker Marshalls or the big practices.

**DR BYRON:** The building designers that have appeared at the hearings around the other states, we have actually asked them, "If protection of title was removed, would you immediately rebrand your business as architects?" and about 10 per cent say yes, but there are a lot of them who say, "Look, the main strength of our successful business as a building designer," or a drafting service or whatever you call it, "is we market ourselves as 'we are not architects'" - because in a lot of the segment of the market that they're talking to "architect" has certain connotations which are not the same as you might put on it. For some people, "architect" has all fabulous, exciting, positive sounds. There seems to be people out there to whom the word "architect" means it's going to cost you an arm and both legs, it's going to take forever to build and who knows what it will look like. So the building designers are telling us that they have a market niche and they have a brand "building designer", which they're actually rather proud of and see that as a positive thing that distinguishes themselves.

My view of all the people who design and supervise the creation and procurement of buildings goes from the really brilliant to the average, all the way down to the bloody awful. At the moment, that spectrum is divided between some who are registered by title because they have the qualifications and they passed the practical exam, and others. Now, if there was a perfect correlation between everybody who was registered was really, really good and everybody who wasn't registered was really, really bad, then I'd say that's a great system. It's giving really good information. But at the moment, there might be some people who are very, very ordinary who are registered and use exactly the same word to describe themselves as you do at the Rolls Royce end of the spectrum.

If there were no state laws that reserved the use of title - imagine this as a hypothetical, and as you say, anybody can use the word "architect", including all of us here - those of you who really do have fabulous, superb skills, expertise and so on would immediately say, "How do we distinguish ourselves to all them out there to let them know that we are the really, really top experienced, talented, gifted, excellent people that they should come to? We will call ourselves the Association of Really, Really Exceptional Architects or something and we'll give ourselves a little gold lapel pin. That's why Joe Bloggs down the road is not a threat to us. He may call himself an architect, he may call himself a brain surgeon for all I care. He's not a threat to us because he can't distinguish himself as a really, really excellent person. He's not in my league." I think a system like that that could have distinguished the good, the bad and the ugly would have arrived if we hadn't had this state based, qualification based reservation of title. You don't believe any of that?

**MR BANDY:** No. I think that if you're saying that building designers think they have got an important label, 90 per cent of them have got that important label that they want to retain, it seems to me a really good argument to say there is within this community two clearly understood circumstances that's only going to be confused if then somewhere between this matrix, we end up with a group of professionals trying to identify themselves as chartered architects, a group of people who call themselves architects and a group of building designers who are at least as good as the chartered architects in the other camp. At the moment - it seems to me what you've said - the building designers are describing that there is a good, relevant labelling system at the moment.

The commission comments that certification provides negligible additional consumer protection and community benefits and the little information over and above that which is or could be provided by a self-regulating profession and other more comprehensive regulations which are already in place. Is this a reason for change? No, it's a statement of circumstance and it comes at no cost to the community. The commission states that there is little - - -

**PROF SLOAN:** It might come at a high cost to the community actually. You've got to be wary of what is the cash outlay and what's the real cost. We don't actually conclude that at all.

**MR BANDY:** Where is - - -

**PROF SLOAN:** Because it involves various restrictions on competition.

**MR BANDY:** What restriction exists in architecture?

**PROF SLOAN:** For example, design competitions which are limited to registered architects. That's a restriction on competition. I mean, if the prize is about good design, why would it be limited to registered architects? You should call it the Good Design by Registered Architects Prize. There are a few subtle things around. Interestingly enough as we've gone around, there are other pieces of legislation - including, in Queensland, we heard about a piece in South Australia which says certain types of work must be done by an architect and that then of course hinges back to the legal term of "architect". So we're not actually concluding that the costs are minimal at all. We're saying they are small because, as you say, there's nothing out there that says, "You shall use an architect." But you can't confuse it with the small cash outlay that architects pay to retain their certificate.

**MR BANDY:** The competition argument is one of the huge contributions that architects make to the community. You have the Federation Square competition; there were a hundred submissions that might have all cost \$60,000 or \$100,000 to submit. We were one of the architects to submit to that competition, and that's a huge exploration of ideas and it's hardly at the community disbenefit. There might be a circumstance where, under the people who established the rules for that competition - and they weren't architects that established the rules for the competition, it was the government that established the rules - there could be an argument that perhaps there might have been a better design outcome by having anybody submit for it. There was for the Federation Square area an earlier competition, just an ideas competition for that space, which has nowhere near the rigour or endeavour or commitment by the profession in terms of the worth of the resource that the community then has to choose from, from that open public competition, so that's two-sided.

**PROF SLOAN:** But in a sense you're almost admitting that - you know, keep the Architects Act because it's there. But you've got to go back to the national competition policy; how could this pass the test?

**MR BANDY:** But what competition is restricted by the retention - - -

**PROF SLOAN:** There are various aspects of restriction of competition and there really seriously don't seem to be many benefits, including you telling me about the public at large referring to people as architects when they're not architects. It seems to me that if that's a problem in the existing arrangement, that's an indictment on the Architects Acts, not a support for them, and that we have to actually get a greater coalition between people's sort of vernacular use of the term and what is actually out there.

**MR BANDY:** It seems to me what the commission is saying is that - - -

**PROF SLOAN:** And it's also not about giving young architects a leg up because that sounds protective.

**MR BANDY:** Gee, I expect - - -

**PROF SLOAN:** I am not trying to be mean but the presumption is that you wouldn't have this sort of thing - and people have to convince us why you would. Those reasons have not to do about the private interests of architects, they have to do about community balances.

**MR BANDY:** My honest naive belief is that the benefit - the reason for retaining the word "architect" is because at every - - -

**PROF SLOAN:** There is information in the label?

**MR BANDY:** I see it as being these young architects - it is not a leg up for young architects, it is - there is nothing in the practice of architecture that is protected. Engineers, you can't sign off a set of comps for the engineering drawing because the practice of signing off those comps is legislated. I can't call myself an engineer and sign a form 13 to say the building is going to stand up.

**PROF SLOAN:** No, but then they don't have government registration.

**MR BANDY:** An electrician doesn't go and - - -

**PROF SLOAN:** They don't have government registration, the engineers.

**MR BANDY:** But they must have licence to be able to do that task.

**PROF SLOAN:** Yes.

**MR BANDY:** The same way as the electrician can't. I can't call myself an electrician.

**DR BYRON:** You can call yourself an electrician but you can't do the work, which is actually the opposite to architects, where anybody can do the work but you can't use the name.

**MR BANDY:** Yes. That seems to me that that's - - -

**PROF SLOAN:** That's a direct instrument, you see, because you're concerned of the consequences of someone who is not competent doing that work leading to, say, an unsafe outcome or fires or whatever, so you actually licence the activity. There is no reservation of title.

**MR BANDY:** But here we have an endeavour that I think is important to be pursued on the community's behalf. We say that anybody can be involved in it. I don't have any issue about anybody practising architecture; fine. It seems to me there is a small piece of information that is provided by the registration, is licensing of the word "architect" to identify a base level of endeavour that's been taken on by a group of people that have gone through the rigours of that course. It comes, for me, at no cost to the community. I can't see anywhere that it is against open and fair competition and I have probably wasted a week of my life.

**PROF SLOAN:** Not at all, Col. Why don't we stop and have some morning tea. Thanks very much. I mean, I think, you know, we're genuinely trying to scratch the surface in what it is because, you know, we're horrible hard nosed economists. You can agree with that. We are trying to get at what are - even if they are not written down at the moment - the rationales for these acts.

**MR BANDY:** It seems to me one of the questions I had to ask myself - some notes there on being a professional in the year 2000. I would hope that everybody does work professionally. That ought to be - no matter what we do. There is something different about being a professional. That is a more woolly question. The awards program that is on in the gallery just down the street here - but at the moment there is an extraordinary display of going above and beyond the call of duty. It is something to do about the uniqueness of this.

**PROF SLOAN:** Thanks very much, Col.

**MR BANDY:** We will create a new label to do exactly the same thing. I guess we will have to do it. That doesn't seem to be - who will make a lot of money out of that, where the competition in that will become - is because of the advertising and the TV and the graphic artists. There is a whole layer of stuff that will be important in that process.

**PROF SLOAN:** Think of the multiplier effects. Thanks very much. We will recommence in 20 minutes with the Architects Registration Board of Victoria.

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**PROF SLOAN:** We'll now resume on Wednesday, 21 June, year 2000 in Melbourne on the review of legislation regulating the architectural profession. We have representatives from the Architects Registration Board of Victoria. If you could state your name and an organisation for the purpose of the transcript.

**MR McGAURAN:** Robert McGauran. I am the chairperson for the Architects Registration Board of Victoria.

**MR KIMBERLEY:** And Michael Kimberley. I am the registrar for the Architects Registration Board.

**PROF SLOAN:** Thanks very much. You have got an hour but I understand that you have to get going very promptly.

**MR McGAURAN:** No, I am fine for the hour.

**PROF SLOAN:** Okay, fine. That's fine.

**MR McGAURAN:** But I have got a technical reference group meeting after this for government.

**PROF SLOAN:** So if you would like to just speak to your submission probably.

**MR McGAURAN:** Yes. Thank you, firstly, for the opportunity to speak to our position. Our paper outlines our views on the comprehensiveness of the report and its findings. I will briefly expand on this position and would ask your indulgence in presenting it over the next few minutes without questions, after which I would be happy to discuss any questions or clarifications you might seek. Our position is one of considerable concern that a number of what we consider to be key issues in respect to both the consumer of architectural services and the national interest, have not been given sufficient regard in a review to date. We are hopeful that our further clarification of these matters will lead the commission to perhaps reviewing its findings.

Of critical concern to us were, firstly, the failure to give adequate recognition to the findings of the NCP review in Victoria undertaken in 1999 that found that benefits to the community of continued regulation outweighed the cost to the community. The review found that these costs, so far as they existed, were negligible and that alternative non-legislative regimes could not achieve similar objectives. In Victoria the regulatory framework for the act as noted by the commission specifically requires the architects to put the client's and community's interests before their own. The proposition to self-regulate put by this commission has the following impacts for the consumer of services and the community that we believe require more urgent consideration.

Firstly, the removal of - it replaces the cost-effective system that assists with the selection of a quality service and which, in Victoria at least, is well used with

over a thousand inquiries per year by consumers of architectural services, including local and state government agencies, with an ill-defined uncosted self-regulated system that devalues the value of time of consumers and diminishes the ease with which they are able to make an informed choice.

In respect of tribunals, it replaces the tribunal process that in this state is chaired by a lawyer, to which the consumer is provided free legal services and the architect meets their own costs with a costly system of user pays. If adopted in the current form we are concerned the consumers will first have to prove that competence was, in the first instance, required. Secondly, what standard could reasonably be anticipated. If an architect does not require qualifications in a self-regulated system then what standards can a consumer reasonably expect? Was the service provider bound to put the consumer's interests before their own - all that before they get to the point of discussing the extent of the damage. The current regulatory regime describes prevention as the best form of cure. It is one that the board feels very strongly about.

The next point is in relation to removal of community board representation in the activities and regulations of professional conduct. To what end, we would ask, would it serve the community to replace their presence in the Victorian act in three of eight positions on our board, working within a regulatory charter of community and client obligation with a self-regulated system captured by one or more design services associations. We are also concerned at the absence of any alternative arrangements for the maintenance of educational standards and relevance for architectural courses within the review. These courses are currently subject to an internationally respected accreditation process at no cost to the community by architectural boards in each state and coordinationally by AACA.

We believe it is critical that the proposed means and costs of any alternative system need to be determined to assess the extent of the impact of the proposed changes. We believe the report must assess the very real short and long-term risks to the economy and the viability of courses of architecture through the jeopardising of fee income from full fee paying overseas students each, in the case of Melbourne University, paying nearly 16,000 per annum. Melbourne University, as I understand it, has about 180 of these students contributing 2.85 million dollars to the economy for that and to that architectural school alone. So the impact on the standards of architectural education, research and practice should not be underestimated of that income and to put that at risk without further review is something that we are extremely concerned about.

We are also concerned that not only does it affect the capital city institutions of RMIT and Melbourne University in this state, but in the regional centre of Geelong, in particular, where the architectural school of Deakin University forms the centrepiece of the university's waterfront presence in what has become a rejuvenated historic woolstore precinct. Of additional concern is that lack of information as to the means and costs by which it is proposed to ensure the preservation and expansion of mutual recognition protocols for professional architectural services between

countries currently provided at no cost to the community. How will confusion in those state regulated jurisdictions and increased barriers to entry be avoided and at what cost? What is the added cost of introducing to and having understood in characteristically government regulated international markets for architectural services, a model at odds with these general principles regulating the profession?

We believe it is crucial that the review reassess in more depth the very real likelihood that these changes will impact on the ability of Australian architects to compete in international markets. These very real risks are likely to impact on the increasing export of services in architecture and the \$34 million in contributions to our GDP that they currently generate. In our view, we believe the commission also needs to reassess the likely cost to the community of replacing what is currently a service provided at no cost with an unproven system. It fails, in our view, at present to recognise the increased risk to the community of removal of a regulatory regime for practitioners which the commission acknowledges provides the vast majority of buildings for government and in turn the community and the highest percentage of high occupancy housing and commercial projects.

The impact of any diminution of standards of architecture for the liveability lifetime cost and hence health and well-being of our community to which we all here have our primary responsibility, has not, in our view, been given sufficient weight. The community action group Save Our Suburbs, which claims to represent 20,000 residents in Victoria, put forward a principle in its manifesto released in 1999 that all housing submissions to council for approval should be submitted by architects and that the architects should be required to signpost their work on the properties thereafter. They clearly differentiate the services of architects from other service providers. They are not an architect driven organisation, they are a community organisation.

The recently released draft code of res code for which I have a copy here for the commission provides a requirement for a great degree of training and experience for design practitioners working in the area of residential design in established suburbs on smaller lots and in higher number housing areas. In this context of demonstrably higher design services expectations of community and government, we believe it is critical that the commission reassess their views in relation to the assessed value of the act and the heightened difficulty for consumers arising from self-regulation in making an informed choice.

Removal of a system with acknowledged high levels of registration compliance in this stage at least is also of concern. The report, we believe, should give greater emphasis to the fact that the current system is provided at no cost to the community or government; further, that it is characterised by high levels of compliance, substantially greater as acknowledged in the NCP review in Victoria than that achieved by other industry professionals under the Building Control Act where they acknowledge that less than half of draftsmen - and I think it was in the order of only 50 per cent of engineers were actually registered and licensed - were amongst professional groups such as the RAIA, which in this state has only 50 per cent of

those that are currently registered, hence the current system provides a highly representative notion of who engages in these professional activities.

Increased costs of architectural services and marginalisation of part-time and lowly paid professionals is another concern. We are concerned that the increased cost to practice and hence to consumers arising from increased costs of RAlA membership for the 1200 practitioners in Victoria who currently choose not to take up membership of the professional club has not been given adequate weight. As noted by the commission, qualified architects might need to join and pay the substantial annual fees in future to differentiate their credentials in a self-regulated market. This will prejudice the ability of those seeking to work part-time or re-enter the market after family commitments, a factor of considerable concern to our board and those who ascribed to promoting an environment conducive to retention of graduates within the profession.

We're also concerned about the confusion that self-regulation would have in respect to the status of federal awards governing the profession. The report fails to date to note the link between the remuneration of architects and professional registration under federal awards that recognise the benefit to consumers of additional training. The report does not acknowledge the costs arising from the need to review these arrangements. For young architects these awards provide a financial incentive for further training and professional development.

There's also the issue of confusion and additional costs in relation to contracts that has not been mentioned to date. For insurers and the users of standard forms of contracts for architectural services, prescribed architectural services are the responsibility of properly qualified architects. These requirements have arisen as a result of assessment of risk minimisation and the need for ethical standards in the undertaking of important quasi-arbitrary roles between parties. No mention is made in the report of the costs involved in the redrafting of definitions in a vast array of contracts to define the necessary skills of the party purporting to undertake these roles.

Then there is the matter of insurance. Inevitably a self-regulated environment will make it more difficult and costly for young practitioners to access professional indemnity insurance from insurers, who will be faced with an assessment of the risk of insuring practitioners with no statutory assessment of qualifications and experience versus those that have achieved registration thresholds in past regimes. So it's of concern to us for the next generation and those currently studying.

Finally, that's not to say that we have a perfect system. We do acknowledge many of the good suggestions that have come through the commission's reports and we readily acknowledge and welcome in our submission the opportunity and need for reforms to ownership, training, insurance and alignment between states and the value of expansion of the regulatory system to cover architectural technicians. We believe there is demonstrable evidence that the objectives of regulatory regimes cannot be achieved more efficiently through other means, will not result in improved

consistency and unnecessary duplication, will result in demonstrably increased cost to the community, an unreasonable risk to economic development, increased barriers to trade in international markets, and diminished professional standards.

Our submission today really is a plea for a more strategic approach to the challenges facing the design, planning and construction industry. We believe the opportunity does exist for an enhanced registration regime, the bones of which are in place and working at no cost to government or consumers. We believe the opportunity exists for the flesh and muscle to be reshaped to meet the challenges of an increasingly competitive, legislatively consistent and global market for architectural services and a local community and diminished public sector that is increasingly dependent on higher levels of professional standards and service. Thank you.

**PROF SLOAN:** Thank you very much. Did you want to say something, Michael, as well?

**MR KIMBERLEY:** Not at this stage.

**MR McGAURAN:** We do have documentation from Save our Suburbs and the RESCO to provide you with, which outlines those skills and expectations of those parties.

**PROF SLOAN:** Okay, we might go through some of those points. I wonder whether you might hazard a guess at what course in higher education has been most successful in attracting overseas students.

**MR McGAURAN:** Probably accounting, I would guess.

**PROF SLOAN:** Yes, and of course there's no government registration of accountants.

**MR McGAURAN:** No, there isn't. There are a very large number of accountants, though, and the international accounting market is dominated by a number of firms that are providing firms on a multinational basis to the companies they represent.

**PROF SLOAN:** They're clearly not a necessary precondition to attract overseas students.

**MR McGAURAN:** No, to be tax agent you have to be registered, to be an auditor you have to be registered. You know, there is a show series of activities for accountants that are the subject of greater regulatory regime, but they're at the same time very rarely performing activities that have consequences of failure to perform them accurately in things like death or injury.

**PROF SLOAN:** Really? That can have major, major financial consequences.

**MR McGAURAN:** Major financial costs, but verandahs don't normally collapse as a result of accountants' work etcetera. So I understand that they have major economic costs, but I think the point I tried to make earlier is - government has taken the view over many years that they want buildings to be good value long-term buildings for the taxpayer. They have chosen, as the commission has noted, to believe that they get those services in the most part from architects for the reasons that they choose. There's not a requirement in submissions that you have to be an architect. You have to provide your qualifications and experience. They're making those assessments, and they're making it in the public interest, I would suggest, and making it as public officers who are looking for risk minimisation to the community. So they're very serious things, I mean - - -

**PROF SLOAN:** But they do that in all sorts of areas. I mean, they contract economists to do a lot of work and they contract accountants to do a lot of work and they're not having to rely on some - - -

**MR McGAURAN:** I think the interesting parallel is Indonesia perhaps, which in our region is the deregulated system. They had a shopping centre collapse and kill I don't know how many people, architects and engineers facing prosecution, but it turns out that neither of them were actually supervising the work and none of them had in that first instance an absolutely up-front requirement to represent the public interest first before their own interests. Do we go to a self-regulated system and then wait for the first disaster before the community - - -

**PROF SLOAN:** I do think that's a bit extreme and I'm not sure that really helps the debate at all, because of course, if you look at the countries that are ostensibly regulated, they include El Salvador and Nicaragua and Egypt and so on.

**MR McGAURAN:** They do, yes.

**PROF SLOAN:** I mean, are these the kinds of places that I'd be going to for high design features and structural integrity of buildings?

**MR McGAURAN:** It depends what their regulatory framework is covering. Our regulatory framework covers both the assessment of courses of architecture as well as protection of name.

**PROF SLOAN:** So you don't think that happens in accountancy?

**MR McGAURAN:** No, I'm sure that happens in accountancy, but our - - -

**PROF SLOAN:** In fact, it probably happens more rigorously in accountancy than in architecture.

**MR McGAURAN:** Our point is at the moment it comes at no cost to the community. That work is undertaken by boards at no cost. Now, the requirement of this commission was to review and ascertain whether a system could be established at

a lower cost than the present system or at no cost or more efficiently. I haven't seen anything as yet in these submissions that would suggest that a model has been put forward or what the cost of that model is. That's not to say that there isn't a model. There may well be and the board welcomes, I suppose, seeing it, but I think it would be fair to assess - - -

**PROF SLOAN:** The thing is, you've got understand - I think one of the very strong conclusions that I've come to is that there is clearly no economics taught in the architectural course. Architects have absolutely no idea about economics at all, because when you talk about cost you're thinking of cash outlay. That's not what cost is about. We used to have import licences, for example. They were doled out, okay. They didn't cost anything. People were just given an import licence. They were enormously costly to the community, because you have to think of it in the resource misallocation sense of the word. It's not actually the dollars that are handed over, and when you talk about self-regulation, people only pay something, as you know when you go and buy something, because it's worth it, right?

**MR McGAURAN:** Yes, or because they understand completely the problem or the issues that they're facing and the commodity they need, and that's the issue in this case: that there isn't an even knowledge distribution in the process. I'd point to, for instance, the recent articles where people are starting to become concerned about the costs of maintaining buildings. Your point on economics I understand, and life cycle costs of buildings, the importance of good design standards and standards in the interests of the community are important issues that have a consequential significant cost to the community over time if they're not properly considered.

**PROF SLOAN:** Hey, but this is with the current system that this happens.

**MR McGAURAN:** This is with the current system. It is with the current system, but at least this group, as opposed to all other groups, has a requirement to work in the community interest and we're not seeing the community saying - we're seeing Save our Suburbs, 20,000 of them, saying, "They're the group that we want to do the work." They're not saying, "We want the building designers to do that work." I've got nothing against building designers, but that's their document and it's a community document. It is not our document. We aren't seeing the government saying that they are looking for the cheapest solution to an area. They're saying:

The skills of a designer with a demonstrably high level of design training and experience in the resolution of individual and multi-unit developments in contexts involving one or more unique problems.

They're really pointing to the fact that there is an expectation of higher skills. We're simply saying that the current system allows a simple methodology for consumers who are not necessarily in the market for architectural services or the time to differentiate on group of service providers from another - by their qualification and the fact that they have attained a level of postgraduate experience to a certain level.

**DR BYRON:** The quote that you read out of there I have no problems at all with because it's about competence and skills and outstanding delivery of service and so on. The whole thrust of our report is trying to - we're totally in favour of improving the quality and the competency and the skills and the excellence of all parties in the construction industry. We're strongly in favour of improving the information that is communicated to all prospective clients of building services providers. The problem we have is that the current system of reservation of title is a very poor vehicle for communicating that sort of information about the competency, the skills and the excellence or the substandard nature. I mean, it's a very, very blunt instrument.

**MR McGAURAN:** It's not a perfect instrument and we've acknowledged that in our submission, but there are two ways you can go about that. You can define better all the players that are working in that market or you can throw it out, and the proposal is to throw it out and let it self-regulate versus a model that, if you include the architectural technicians in the loop, as we've talked about, the building designers etcetera, if you ascribe a set of competencies to them, some of which might be quite high - we don't dispute the fact that there are some who are working at a high level in areas such as sustainable housing. We're aware of some. Some of the building design construct companies do a very good job in their segment of the market.

We welcome the opportunity for consumers to get better information, but at least they're being told at the moment, "This guy has done 2000 hours of design training in his course of architecture and he's met a set of tests that are now national tests, coordinated across the nation, based on the competencies reviewed by an external education party to make sure that it is a fair review of competencies required and that has been tested and is working." That goes under this model. Poor Joe Bloggs, consumer, has to work out, "Now is it the Institute of Architects guys? They're calling themselves architects. That's good" - or, "These guys here, building designers, they've got architects in there as well. When I sign a contract and it says the architect is going to do the job, what actually is that person? What are their qualifications to call themselves an architect? What do I understand when I go to court when they stuff up?"

**DR BYRON:** See, the engineers have coped with all that.

**MR McGAURAN:** "What are the standards that I can reasonably expect of that party?" None of that is tested.

**DR BYRON:** Throughout the presentation that you made at the beginning, you have equated self-regulation with total absence of any regulation and then equated that with the total absence of any standards. That's not the sort of self-regulation that we have in mind.

**MR McGAURAN:** No, I understand that the institute will be standing there and there will be RAI members and they will have training and they will have a register but they might only be 60 per cent of architects. They won't be in all likelihood allied design professions. They might, but the current policy is that they wouldn't be, so the



consumer is none the wiser. They've got to try and differentiate, "Which group? Which group is what my historical understanding of this body was?" Which public officer is going to be able to sift through the fact that every letterhead that comes in saying they're an architect and have to wade through the qualifications and - "Is this a regulated course that this person did? Is this a course from overseas? Which group do I go to to find out about that course?"

**DR BYRON:** There's no government group that does that for any other profession that I can think of that has reservation of title.

**MR McGAURAN:** There may not be, but at the moment that does happen and what are we saying is wrong with it?

**PROF SLOAN:** But you heard how Paul got his clients. I mean, the fact that he was a registered architect is neither here nor there really.

**MR McGAURAN:** I do a lot of work for government and I can tell you, it's a very important aspect for my insurer.

**PROF SLOAN:** I am wondering whether in fact your - - -

**MR McGAURAN:** It's an extremely important position that I am registered. My insurer doesn't want me to manage projects and manage the construction of projects and manage the coordination of other professionals on the project unless I'm registered.

**DR BYRON:** But if you went from a system of statutory reservation - - -

**PROF SLOAN:** Well, the accountants get insurance. I don't think we need worry about that.

**MR McGAURAN:** But at what cost? I mean, I pay - - -

**PROF SLOAN:** At the right cost, at the actuarial cost.

**MR McGAURAN:** But not necessarily at the cost that I pay at the moment.

**DR BYRON:** Absolutely nothing need change if, instead of you being an architect registered with the Architects Registration Board of Victoria, tomorrow you are an architect registered with the ABC Accreditation Co Pty Ltd that did exactly the same or more in terms of assuring and assessing your competency, experience and skills and background. Your premiums wouldn't change because - - -

**MR McGAURAN:** By whose assessment? I mean, we get the person coming from overseas to practice here. Who assesses their competence? Do they join the RAIA automatically?

**DR BYRON:** It doesn't have to be the RAI. I mean, I'm not assuming for a moment - - -

**MR McGAURAN:** Or do they join the Building Design Association? Do they automatically get insurance?

**DR BYRON:** They apply to an organisation that accredits the competency, skills and excellence and capabilities of that particular professional group.

**MR McGAURAN:** Who liaises with the overseas countries and overseas boards? I mean we went to Darwin last year and met with the boards in the region, China, Japan, Hong Kong. Those countries have very strong state based systems and protocols. Are they going to listen to - - -

**DR BYRON:** Especially China.

**MR McGAURAN:** - - - Such-and-Such Pty Ltd purporting to register a group and say, "Well, these schools that we represent are fine." I mean, we have the example in Victoria where a school didn't meet the expectations of the Education Department etcetera here for licensing. Tell them that it hasn't been a barrier to their ability to trade.

**DR BYRON:** APEC Engineering goes into operation next month I believe with a - - -

**MR McGAURAN:** Which?

**PROF SLOAN:** APEC Engineering - mutual recognition.

**DR BYRON:** APEC with eight countries, and they're telling us that within a year or so there will be 15 countries. Now, the engineers who have been able to do that without statutory reservation of title and - - -

**MR McGAURAN:** But look at the numbers you're talking about. How many engineers are we talking about? Maybe, what, 150,000 in this country alone. I mean, can you - - -

**DR BYRON:** Is that a plus or a minus?

**MR McGAURAN:** Plus or minus. But compared to - what are we talking about, 8000 - - -

**PROF SLOAN:** That means it would be so much easier for you to self-regulate when there are so few of you.

**MR McGAURAN:** Across countries? I mean, you think about the ability to negotiate with governments in countries for a small group of people versus a very large group like you're talking about. You're talking about numbers in those seven countries that might equate to a million professionals, against in our case it might equate to 100,000 tops. You know, is it in the country's interest to invest the resources in putting that together and at what cost again? At what cost?

**DR BYRON:** The only reason that APEC Architecture hasn't gone ahead at the same pace as APEC Engineering is because of architects' insistence that they need statutory registration whereas the engineers have proceeded with non-statutory registration.

**MR McGAURAN:** That came through very strongly in the other countries that - they assess the need to develop their countries and to maintain the standards in their countries as being aligned completely with the issue of training and the quality of their courses. In Japan, for instance, there are three levels of registration. You get out, you get your first level, you can only do timber buildings. The next level you can do masonry buildings and then you can do concrete when you're the master.

**PROF SLOAN:** And they fall down in the architect - - -

**MR McGAURAN:** There's a very, very rigorous system. Now, if we go in there and say, "We've got a better system for you guys. Ours is that we look after ourselves," I mean, that's really going to go down well, I would suggest. You know, it's just going to be completely ignored.

**DR BYRON:** I could suggest you could go in and say, "We have a national registration system which does all the things that our old, decrepit, obsolete state based system didn't do and it is now far more rigorously and vigorously enforced and the quality and the calibre of our excellent people is even more highly accredited now than it was last year."

**MR McGAURAN:** Tell me at what cost and you tell me too, where is the community interest component looked after? At the moment in Victoria we are bound as architects to put their interests in front of ours. Now, what system is replacing that? Tell me what system. I can't see it. I mean, membership of an institute that is a club that has no external representation by the community currently in any of their assessment of tribunals - you know, I can't see under the terms of reference of this report that you have demonstrated that the proposed model is better than the current model.

**DR BYRON:** The National Register of Professional Engineers, I would not have thought of that as a club. I would have thought of that as a highly credible - - -

**MR McGAURAN:** They are a very big organisation and they - - -

**DR BYRON:** That's a difficulty, not a - - -

**MR McGAURAN:** They have to put their licences - - -

**PROF SLOAN:** It's easier when you're smaller.

**MR KIMBERLEY:** Can I just make a couple of observations about that area of discussion because it concerns me a little. The terms of reference of the report are concerned with consistency and efficiency in particular and yet the proposed solution to achieve that are to do with voluntary membership across the possibility of a wide range of organisations which might be registering people we call architects now. In other words, there is a high degree of possibility for lack of consistency - for consistency to disappear - for there not to be a national system at all but a system which is different from state to state and that you could have competing interests between those smaller registering authorities who advertise in ways which attempt to attract public acceptance of their authority, and as soon as you get into that area, you get into an area of misrepresentation or the high possibility of misrepresentation - - -

**PROF SLOAN:** Which would be illegal.

**MR KIMBERLEY:** Yes, it would, and there are acts to cater for that and they cater also for the way in which architects misrepresent themselves now, that is, in existence. What I'm saying is that the proposal increases the possibility for greater inconsistency and greater confusion on the part of the public not knowing who to go to and having a number of agencies competing with one another. You lose efficiency, you lose consistency, you lose transparency, you lose public knowledge of the standards and the third - - -

**PROF SLOAN:** There doesn't seem to be much public knowledge of the system at the moment.

**MR KIMBERLEY:** I think there is. I dispute that. I would like to just finish what I was saying also which is that I think this whole question relates to the role of government and I think the proposal is worrying in that what it is doing - it's doing two things, it is suggesting to the government that this issue be taken in isolation, and I don't think that's at all strategic, and it's also suggesting that there is a further erosion of government responsibility to its community and I think those two issues are far bigger than anything that's been raised in the report yet and I think they need to be considered further.

**PROF SLOAN:** I mean, I'm interested - you sit as a board member of the Architects Registration Board but what liability do you really assume? I mean, let me give you an example of the Building Design Professional Association Accreditation Council. Their role is to accredit the building surveyors. I might have got that wrong - building surveyors.

**DR BYRON:** VSAP.

**PROF SLOAN:** VSAP, and in the event it's found that they have falsely accredited someone, falsely assessed their competency, they are legally liable. They take this really seriously. That is simply not true as you sit there as a board member of the Architects Registration Board.

**MR McGAURAN:** I think that what you're talking about is a trustee role in many, many government areas. I sit as a panel member for government on the assessment for major construction and planning projects that are going to affect the community.

**PROF SLOAN:** But let's talk about the Architects Board. You really have no liability at all, do you?

**MR McGAURAN:** Well, I have a professional liability to work in the public interest on that board and to undertake the working of the act.

**PROF SLOAN:** But no-one can come and sue you.

**MR KIMBERLEY:** The act actually has a statement about liability and it's quite explicit.

A member of the board or the registrar is not personally liable for anything done or omitted to be done in good faith and without negligence.

Therefore there are some conditions there; it must be without negligence. Secondly:

In the exercise of a power of the discharge of a duty under this act or in the reasonable belief that the act and/or omission was in the exercise of the power, any liability resulting from an act or omission that would but for subsection (1) attach to a member of the board or the registrar attaches instead to the board. The board is collectively liable for its decisions within the act.

**PROF SLOAN:** Not according to that first section.

**MR KIMBERLEY:** That is quite explicit and overt.

**MR McGAURAN:** It is according to that. If we don't act negligently, then presumably there is not a liability, but if we are acting negligently, then we are liable, so - and more than that I suppose, when you take on a role as a board person, whatever board you're on - I don't know about you but I mean it is a very serious - - -

**PROF SLOAN:** I'm on lots of boards.

**MR McGAURAN:** I am aware that you are and you would be aware it's a very serious undertaking. I don't think you could talk to any of the board members that I've been involved with and think that they haven't taken their role extremely seriously and - for most in Victoria at least - put the public interest as the highest issue of importance at all times.

**PROF SLOAN:** Of course we had an interesting submission from your predecessor, the former registrar of the Architects Registration Board and I suppose you probably would describe that submission as a mea culpa, wouldn't you?

**MR McGAURAN:** No, I think - - -

**PROF SLOAN:** He came to the conclusion that this system does not work.

**MR McGAURAN:** I think what you're seeing is somebody who has been out of the loop for what, 18 months now or something.

**PROF SLOAN:** That's not very long.

**MR McGAURAN:** Well, it's long in the scheme of things because since that time we've had the meetings with the region, we've enacted a national examination system, we've agreed on a model act which hasn't been commented on very much in the paper to date but which we suggest should be investigated further which talks about many of the things that the commission has rightly put as key issues that the industry needs to address in relation to insurance training etcetera etcetera. In our state, we've put in a process for the management of tribunals that ensures natural justice takes precedence, that ensures that we have a manager managing that process, that has resulted in I don't know how many tribunals since Jeff Keddie left, but we've had a large number, one going six days.

**PROF SLOAN:** So he was right, but - - -

**MR McGAURAN:** He might have been right at a point in time in some points.

**MR KIMBERLEY:** I think it is also worth saying that it's a personal interpretation taken from - - -

**PROF SLOAN:** All of this is a personal interpretation, might I add.

**MR KIMBERLEY:** Exactly, taken from a perspective which need not necessarily be a judgment of the value of something but it may be an academic analysis and a difference of opinion which is no greater than any other opinion in the debate.

**PROF SLOAN:** I think not. I think someone who's actually held the role of quasi regulator we'd take very seriously.

**MR KIMBERLEY:** At a time when things were very different and there was outward antagonism between state and national movements at that time; that position has shifted.

**MR McGAURAN:** And at a time prior to regulatory reform. We've had an upgrade of all of our regulations in this state. We've had an NCP review since Mr Keddie left and, you know, whilst it's an opinion, I suppose what we would like to say is many of the issues that we've raised - and I'll leave you with a copy of this paper as well - have really been focused on looking at the objective rather than the subjective. We have looked at: while there will be costs in setting up this other system, what will they be? I mean, they are not there at the moment and if they are not there and something is there at the moment - - -

**PROF SLOAN:** There will be benefits as well. If they are by and large - - -

**MR McGAURAN:** What are those benefits?

**PROF SLOAN:** By and large those costs won't be incurred unless the benefits are greater than the costs.

**MR McGAURAN:** I'm not sure what the benefits are. I've read the report and for the life of me, I can't see what the consumers' benefits are arising out of this thing. In Victoria - let's just look at Victoria - could you tell me what the benefits are?

**PROF SLOAN:** Well, I think the point is that if you read chapter 9, which basically goes through the serious weaknesses in the system and you go through our rationale for government intervention which is, for example, information asymmetry, I mean, we're very critical of a system that provides you with a one-off registration process whereby there's no differentiation between someone who is registered in 1956 and has driven a taxi ever since and someone who registered in 1998.

**MR McGAURAN:** An important point, but in Victoria - - -

**PROF SLOAN:** To me that is providing nil benefit.

**MR McGAURAN:** In Victoria they are at least required to work in the community benefit. The training right through their course is, "If you don't know, you find out." Where do you find out from? That remains a common thread for architects all the way through their professional life because we are constantly faced with new challenges or problems that are unique problems and we have to address them. So if we don't know the latest thing, we have the professional training at least to know that we don't know.

**PROF SLOAN:** That is true for other professions.

**MR KIMBERLEY:** I need to come in at that point also, if you don't mind.

**PROF SLOAN:** That is a silly thing to say, isn't it? I mean, we've been trained as economists - do you think I stopped learning when I finished my degrees? Of course not.

**MR KIMBERLEY:** I would like to add something to the discussion here.

**PROF SLOAN:** You know, that is not uniquely architects.

**MR KIMBERLEY:** In writing, in the information 39 which has been in place since December 1996, an architect carrying out his or her work in a competent manner and to a professional standard is expected to maintain that competence and standard through regular attention to or participation in continuing professional development.

**PROF SLOAN:** Is that a requirement?

**MR KIMBERLEY:** That is a guideline for the profession in the interpretation of regulation 5. There are a number of statements of that kind in action now which pre-empt the recent national move towards requiring continuing professional - - -

**PROF SLOAN:** So are you culling the registration lists because people can't comply with that? Do they have to document - - -

**MR KIMBERLEY:** We are not empowered to do so because the act doesn't however - - -

**PROF SLOAN:** Okay, so that is just a suggestion really.

**MR KIMBERLEY:** I think the point that needs to be made is that, yes, the current system has some faults and yes, it is different from state to state - and in your report you acknowledge the existence of the national model and the structure of that national model and you actually state that it has benefits. I think the point we're trying to make here is that that national model is in existence. Its cost is known. Its effects are known and the future potential for it to improve the system nationally with greater efficiency and greater consistency across states is demonstrable. The guesses about what might happen in a voluntary various system aren't known.

**PROF SLOAN:** Of course that is not true, that the costs are known and the benefits are known.

**MR KIMBERLEY:** Yes, it is.

**PROF SLOAN:** No, they are not. Well, give me the figures.

**MR McGAURAN:** We would just argue we know what it costs to conduct the national system now. We know what it costs to conduct boards now.

**PROF SLOAN:** No, you don't because that's cash, you see. I will have to give you some literature on this. There is a big difference between cash outlays and costs - - -



**MR McGAURAN:** We know what a national examination process costs, for example.

**PROF SLOAN:** Cash? What it costs in cash terms?

**MR McGAURAN:** No, we know what it costs to establish.

**PROF SLOAN:** No, I don't think you do at all.

**MR McGAURAN:** Look, I understand all the economic rationale.

**MR KIMBERLEY:** But there are no economic repercussions of those costs out into the community. There are no budgetary considerations for governments as a result of those costs but there will be budgetary considerations for governments in altering or in bringing in new legislation, in ensuring somehow what system will be used to monitor the voluntary organisations and the claims that they make about their members, who will do that and under what system.

**PROF SLOAN:** You see, this is a weak argument though because you are saying, "They are there, so keep them." Of course under NCP that is simply not good enough because there is a presumption that these things shouldn't be there.

**MR KIMBERLEY:** No, we're not saying that.

**MR McGAURAN:** No, that's quite untrue.

**MR KIMBERLEY:** No, you've misrepresented the point we've made there, I'm afraid, I'm sorry.

**PROF SLOAN:** You really haven't actually come to grips with the alternative at all or the concept of costs.

**MR McGAURAN:** We're saying that - I mean, the principle aim of this review is to achieve greater consistency in any future regulation of the architectural profession in Australia. What is proposed demonstrably will not do that. The model we have at least - - -

**PROF SLOAN:** No, you haven't demonstrated that at all.

**MR McGAURAN:** I mean, you don't have to be Einstein to see that if you have got five groups putting themselves out to self-regulate, how is that going to achieve consistency when they are in competition with each other?

**PROF SLOAN:** Competition is actually good, national competition policy.

**MR McGAURAN:** But consistency - - -

**PROF SLOAN:** That is true in the case of accounting - - -

**MR McGAURAN:** I mean, it will not achieve consistency. They will be trying to - - -

**DR BYRON:** Consistency doesn't mean uniformity.

**PROF SLOAN:** No.

**DR BYRON:** I think you have got - - -

**PROF SLOAN:** See, the accountants have, in a sense, competitive self-regulation and that is good, not bad. So if you had to choose between the national and statutory state based registration, which one would you think is more important?

**MR McGAURAN:** We feel that there should be a national registration system.

**PROF SLOAN:** No, but if you had to choose.

**MR McGAURAN:** If we had to choose, it makes sense - - -

**PROF SLOAN:** I mean, the truth is, the likelihood of getting registration is very low.

**MR McGAURAN:** - - - to move towards the fact that we are one country and we work across state boundaries so we should at least either (1) have a national system that is regulated in each state with consistency, or a national system, so you either have state acts that are consistent under a global national set of objectives or you have a national system. We don't have a problem with either of those models because they will achieve the same end. You need to have satellites in a number of these locations anyway in order to ensure that you have good information to consumers.

**DR BYRON:** What if AACA, instead of being AACA Inc, became AACA Pty Ltd and it offered national accreditation and a national register very similar to what the national register of professional engineers does? Anybody who thought it was worth paying to belong to get a tick, a stamp, a gold lapel badge or whatever from AACA Pty Ltd would then be accredited, certified by - you would have a national system that would provide a great deal of information on quality skills, experience, competence and all the rest of it but not statutory and therefore not mandatory, but presumably everybody who met the competency standards and thought it was worth paying \$100 or \$120 or whatever it was a year would presumably do it. We would then have a national competency based system. If they then wanted to bring in gold, silver and bronze standards like the Japanese, they could do that but it would be non-legislation based. It could provide consumers with more information than the current sort of reservation of title registration does. It wouldn't be conflicting with any sort

of national competition policy laws because it wouldn't be mandatory that you had to be a member of this organisation to be able to use the title. I think you would end up with something very, very similar to what the engineers have.

**MR McGAURAN:** Look, I'm talking for the consumers of Victoria: where is the requirement for public interest across the profession required in there representing the public interest in front of theirs? I mean, it is just not going to happen.

**PROF SLOAN:** It would serve the public interest better than your system because it actually provides greater forms of information and actually - - -

**MR McGAURAN:** How does it?

**PROF SLOAN:** - - - an assessment of competency which - yours is just one of those - - -

**MR McGAURAN:** Ours is too, our whole examination system - - -

**PROF SLOAN:** Yes, okay, but it does not then differentiate between someone who registered many, many years ago compared with someone else.

**MR KIMBERLEY:** Nor does the AACA system at the moment because it is in a transition period. I think the problem is that that model means still that you would have some groups who were not registered there and the public would not know what their status is. So it is the voluntary aspect which is still a problem I think.

**DR BYRON:** That is actually the strongest feature of it.

**MR KIMBERLEY:** The second aspect - pardon?

**DR BYRON:** That is actually the strongest feature of it and that's what gives it the discipline and the integrity and the credibility because if they don't market, project and protect the reputation of their brand, then they are putting everything at risk.

**MR KIMBERLEY:** At the moment the group that is attempting to protect the brand does not deal with members of the public whose architect is not a member. In other words, the brand-protecting organisation at the moment discriminates against non-members. It would be desirable for the AACA to have something in its charter which stated that it would serve all members of the community. The question is who would require them to do that, would it be done by statute or by a gentlemen's agreement. It comes back to the question of the role of government in ensuring that the public interest is looked out for and the market forces of the economy and voluntary membership don't look after community interest: you are out there, you survive if you can.

**DR BYRON:** I think you put your finger on a very important point of difference between us. My understanding from memory of the composition of the board of the

National Register of Professional Engineers includes not only representatives from various state governments, and not necessarily public works departments and not necessarily architects, but it also has I think somebody from the St James ethics group and a number of consumer representations. The reason they do that is not because any government, state or federal, has told them they must have consumer representation but for the success and the credibility of the whole registration process. That is why they do it. I think we have perhaps a political difference of opinion on the role of the state in prescribing how things must be done as opposed to a mechanism.

**MR KIMBERLEY:** I wouldn't call it political. I would call it a concerned member of the community because that is totally reliant on that organisation continuing to agree that that is the structure that is most beneficial. If they change their mind and decide that they could do more things more efficiently and more cost-effectively by getting rid of some of those people, there is nobody to stop them. So it is a gentlemen's agreement at the moment, that's all it is.

**DR BYRON:** But see, they are getting rid of people.

**MR KIMBERLEY:** There are no checks and balances in the community.

**PROF SLOAN:** It seems to me it's a much stronger model than - I know Victoria has done something about it but if you look at all the other Architects Boards, they are dominated by architects and in fact - - -

**MR KIMBERLEY:** Let's look to the future, not to the past. The purpose of the review is to look to the future.

**PROF SLOAN:** Hello, we are there to look at the acts.

**MR KIMBERLEY:** No, and to look at alternative - - -

**PROF SLOAN:** It is not true.

**MR KIMBERLEY:** - - - and greater efficiencies. It is stated in the issues paper and it is stated in the draft report.

**PROF SLOAN:** No. We have to ask the threshold question, do these architects' tests pass the national competition policy tests?

**MR KIMBERLEY:** The conclusion is that they don't - - -

**PROF SLOAN:** And everything else - - -

**MR KIMBERLEY:** - - - but that there is an alternative model.

**PROF SLOAN:** - - - is subsidiary.

**MR KIMBERLEY:** There is an alternative model.

**PROF SLOAN:** Exactly.

**MR KIMBERLEY:** Which would improve those existing systems and you have acknowledged that. It would do so efficiently in terms of time and cost, far more efficiently than opening it up and taking another two years to invent something and then hope that the gentlemen's agreement would resolve what you will hope will come from it. That, to me, doesn't sound like a very strong basis for a government policy to be built.

**DR BYRON:** The reason that we don't prescribe and go into great length about the nature and the exact detail and composition and everything else of a self-regulatory system is precisely because it is self-regulatory, it does not require statute. It doesn't require any government action, apart from the repeal of the existing acts that prevent its emergence.

**MR KIMBERLEY:** Yes, that's right. That is part of its definition, exactly, as it's wide open to anything that may happen in the future.

**PROF SLOAN:** I just think you have to be careful of accusing us of not doing our task. We have done our task - - -

**MR KIMBERLEY:** We don't believe that you have - - -

**PROF SLOAN:** There have been efforts over many years, it would seem, to get these architects acts which came about at the behest of architects. Let's not forget the history of these. There were not consumer protection acts. These were enacted by - - -

**MR KIMBERLEY:** Yes, they were.

**PROF SLOAN:** They were not.

**MR KIMBERLEY:** The architects' profession has explicitly stated in its acts that it will protect the consumer and that the architects will act - - -

**PROF SLOAN:** That is the - - -

**MR KIMBERLEY:** - - - in the interests of the - - -

**MR McGAURAN:** Surely that is what the commission should be asked. It should be - - -

**PROF SLOAN:** We are not charged with looking at the Victorian act.

**MR McGAURAN:** No, sorry, you are. You are charged with looking at relevant aspects of the review undertaken in Victoria.

**PROF SLOAN:** But we are excluded specifically - - -

**MR McGAURAN:** No, it specifically states - - -

**PROF SLOAN:** Of course we did look at it - - -

**MR McGAURAN:** Sorry, it specifically states you must.

**PROF SLOAN:** - - - the history of these acts - - -

**MR McGAURAN:** You must look at the relevant aspects. Surely the fact that we have consumer representation on the board as a model, that we put the consumers' interests before architects, surely those issues are of primary concern to the underlying purpose of this thing; ie, are they working in the consumer interest and are there models in existence, legislative or non-legislative, at the moment that provide a way forward?

**PROF SLOAN:** Absolutely.

**MR McGAURAN:** We are saying that aspects of the Victorian act - - -

**PROF SLOAN:** That is why we looked so carefully at the engineers.

**MR McGAURAN:** - - - aspects of training etcetera - well, I mean, if one focuses on the engineers, then surely one should look at the disbenefits of change that occur to Victorian consumers who are stating both through government and through a group of 20,000 residents that they want architects.

**PROF SLOAN:** How many people are in Victoria though?

**MR McGAURAN:** How many people in Victoria are interested in writing to people in government and committing themselves to a manifesto? I would suggest there is not many that are committed to 20,000 signatories on a manifesto. In that case I think it is an important expression of a community concern about the importance to them of qualifications.

**PROF SLOAN:** Then they will be writing to the politicians demanding that the Architects Act be retained. But you are actually different from quite a few of the others who I think are much more admitting of the weaknesses of the current system and that really view the changes to the current system as urgent.

**MR McGAURAN:** We agree.

**MR KIMBERLEY:** We agree and we support them totally and they are ready to be put in place and we have stated overtly that the national system which is proposed is a big improvement on the current system. What we're concerned about is the total discrediting of the current system as if for some reason just because some of the acts are a little out of date and some of them are different from one another that that is sufficient reason to base a future government policy on and it isn't sufficient reason.

We have stated quite overtly that the proposed national system with a statutory base which is specific to the profession is important, but we've also made I think a very important point that a much more strategic conclusion would be that all legislation and all services which are related in this area should be looked at together. It's not sufficient to pick out one profession and take an open-ended approach to it.

What we are proposing instead is that all the related services and professions be looked at together, that the legislative and statutory arrangements be revised, that the public be clearly informed about the differences between them and we feel that the suggestions that are made in the draft report don't have a sufficiently strong enough basis to convince us that there is ground there for those sort of important things to happen.

**PROF SLOAN:** Of course saying the acts are there is not a good reason to continue.

**MR KIMBERLEY:** We're not saying that. It's a misrepresentation.

**PROF SLOAN:** So your model really is that the architects can go in with the Building Act.

**MR KIMBERLEY:** No, we're not saying that at all.

**PROF SLOAN:** You can go in with the building services - - -

**MR McGAURAN:** No, you haven't heard that.

**MR KIMBERLEY:** It's a provocative comment to make which is grounded in the existence of the Victorian National Competition Policy Review which speculated that one improvement may be to combine building service people under the same legislation. That is there. It's on the table.

**PROF SLOAN:** Sounds pretty efficient.

**MR KIMBERLEY:** It hasn't been rejected but it hasn't been approved yet either. What it indicates is that there is potential for strategic action to be taken across the board and do it properly instead of in a piecemeal fashion which leaves it totally open ended and the public loses its direct access to control over the profession because it

loses its act, its access to its minister and its access to a responsible body and it hands it over to somebody who will take commercial interests. They make take professional interests but there is no guarantee that they will.

So we propose that a far more strategic position should be taken which is forward looking rather than backward looking, which doesn't hide behind part of the terms of reference and in fact examines all of the terms of reference and presents convincing arguments in favour of change. If that can't be done, don't demolish an existing system which has demonstrated it can improve, in favour of a proposal which is totally unformed.

**PROF SLOAN:** Thanks very much for your contribution and we will now break for lunch and resume at 2 o'clock.

(Luncheon adjournment)



**PROF SLOAN:** We might resume the public hearings on the review of legislation regulating the architectural profession held in Melbourne on Wednesday, 21 June 2000. We welcome Mr John Patience who is from the Architects Education and Registration Board of New Zealand. Thank you very much for coming. You've come over?

**MR PATIENCE:** I have, yes.

**PROF SLOAN:** Well, we know you're here. That's a stupid question really, isn't it?

**MR PATIENCE:** Specially for the event, yes.

**PROF SLOAN:** Thank you very much. Before you start your presentation and indeed introduce yourself for the purpose of transcript, just prior to lunch we were talking to the Architects Registration Board of Victoria and there was some discussion about the review of the act in Victoria and why we, in a sense, hadn't addressed that review, the National Competition Policy Review.

The truth is that has never been released publicly and we've actually never seen a copy of that review so I think it needs to be said on transcript that clearly, given that it was not publicly released, we were not in a position to assess it, so I'm not sure we can be criticised for that. Indeed, we really haven't seen any of the NCP reviews undertaken in part or in full in any of the states. So, sorry for interrupting you, John. Again, welcome, and if you could state your name and allegiance for the purpose of transcript.

**MR PATIENCE:** Sure. My name is John Patience. I am the chairman of the Architects Education and Registration Board of New Zealand.

**PROF SLOAN:** Are you an architect?

**MR PATIENCE:** Yes, I am an architect. Firstly, I would like to thank you for providing me with the opportunity of making a submission. I realise I'm a foreigner and as such I might be regarded as somebody who doesn't have a direct interest but our board certainly has an interest in the implications of any activities in Australia as they might bear on us through our various relationships with Australian registration authorities.

**PROF SLOAN:** How did you become aware of the inquiry?

**MR PATIENCE:** I believe we were told actually by AACA that the inquiry was proceeding. I don't think it was common knowledge amongst the government - - -

**PROF SLOAN:** Did they ask you to put in a submission?

**MR PATIENCE:** No, not at all. We put this in off our own volition.

**PROF SLOAN:** So the AACA contacted you to - - -

**MR PATIENCE:** No, the New Zealand registrar and I were in Australia for a meeting that we have on a regular basis and we were told that the Productivity Commission was commencing proceedings so we asked to be kept informed.

**PROF SLOAN:** And they kept you informed?

**MR PATIENCE:** I think we actually got most of our information off the Web. Okay, what I would like to do, if I may, there are some amendments I have to make to our original submission because of information that came to hand late in the piece but if I could make some introductory comments, address our submission, and then some supplementary comments as well.

**PROF SLOAN:** Fine.

**MR PATIENCE:** AERB makes the submission, because it is concerned to ensure that your commission fully appreciates the implications for AERB if the recommendations contained in the commission's draft report are adopted. Over the past several years a strong and mutually beneficial relationship has developed between the registration boards of New Zealand and Australia and this has resulted in the liberalisation of trade and architectural services between our two countries and has also provided individual architects with the ability to practise in each other's countries.

By way of illustration currently or just concluded in Wellington a major hospital building has had a consultant appointed. Four teams of consultants were short-listed for the project. Each of those teams was a consortium of Australian and New Zealand professionals. The Australian professionals could compete for the work because they were entitled to be registered in New Zealand under our present arrangements.

**PROF SLOAN:** So you had to be registered to do this work?

**MR PATIENCE:** Correct. You can't call yourself an architect in New Zealand unless you are - we have protection of title in the same way that Australia - - -

**PROF SLOAN:** But you have protection of practice?

**MR PATIENCE:** We don't have protection of practice.

**PROF SLOAN:** Go on. I don't quite see then what's relevant but - - -

**MR PATIENCE:** It's relevant to the extent that the hospital authorities required architects to do the work.

**PROF SLOAN:** So the competition was restricted to architects.

**MR PATIENCE:** In August 1990, AACA and AERB entered into a mutual recognition agreement which enabled architects to register and practise within our two countries. Under this agreement, registration procedures of each country were accepted by the other and individual Australian architects were able to register in New Zealand and vice versa, merely by making application. From August 1990 until the enactment in New Zealand of the TTMRA in 1997, 54 Australian architects were registered by AERB.

**PROF SLOAN:** 54.

**MR PATIENCE:** 54.

**PROF SLOAN:** Only 54?

**MR PATIENCE:** It's a fairly significant number. As you mentioned this morning there aren't very many architects in this part of the world so it's a reasonable number. At the international conference on architectural registration in Washington DC in 1996, the AACA, AERB mutual recognition agreement was seen to be an excellent example of an arrangement which facilitated free trade and services within the context of CATS. Building on this experience, AACA and AERB convened an international forum in Darwin in May 1999 at which representatives from countries in the Asia-Pacific region discussed the implications for them of advancing the negotiation of further reciprocity agreements.

Feedback from attendees indicates that the forum was considered worthwhile and currently a working party is being established to further advance the process. So it's within this context that our submission dated 19 May was made. If I could perhaps read our submission. "We thank you for the opportunity to comment on the draft report," and we go on. As the regulatory body for the architectural profession in New Zealand constituted by legislation the board views your recommendation that the state and territory Architects Acts under review be repealed after a two-year notification period with considerable concern. This concern relates particularly to the issue of reciprocity and international recognition. Should the commission's recommendation be implemented then, apart from the four Scandinavian countries and Ireland, Australia would be the only other jurisdiction of 57 countries for which our board holds information which would not require the registration or licensing of architects.

International standards for the right to use the title "architect" mean that that person has met stringent academic and practical professional standards which are tested by examination prior to registration being granted. Repeal of architects acts in Australia means that without the legal protection of the title of "architect" or "registered architect", it will change the meaning of architect to "hopeful designer" instead of a tested, competent, qualified and experienced professional. Self regulation by the Royal Institute of Architects or any other private professional body

will not necessarily mean the same stringent requirements that are now in place under statute will be maintained in the future.

Private institutes are at the whim of the current elected officers of the day who may have different views or agendas with respect to the qualifications for membership of their institute which may have little regard for the generally recognised international professional standards. Furthermore, membership of such bodies is voluntary and many designers will have no wish to join such institutes.

**PROF SLOAN:** Are these your words? These sound like what we just heard before lunch.

**MR PATIENCE:** These are my words.

**PROF SLOAN:** Okay. So you agree with the people before lunch?

**MR PATIENCE:** I do.

**PROF SLOAN:** They use very similar words.

**MR PATIENCE:** As I highlighted in my submission to you dated 16/12/99, this board's opinion is that it is imperative that statute backed registration be maintained in Australia by means of a national act.

**PROF SLOAN:** But hang on, you're in New Zealand, so - - -

**MR PATIENCE:** Agreed, and I'm being presumptuous in saying it, I know, but I'm still making the point. This board is bound by the provisions of the Trans-Tasman Mutual Recognition Act 1996 which refers to occupations rather than professions. Should the commission's recommendation be adopted, then the board will be required under the act to register anyone entering New Zealand from Australia who describe themselves as an architect.

**PROF SLOAN:** That's absolutely untrue, you realise?

**MR PATIENCE:** Yes, I mentioned to you that I was going to - - -

**PROF SLOAN:** Good. Well, let it be said that is absolutely untrue.

**MR PATIENCE:** True. AERB would not wish to register any Australian "hopeful designer". I will carry on to the next paragraph. This would certainly have a detrimental and lowering effect on standards of the profession in New Zealand and in turn affect any mutual recognition agreements the board had negotiated or wished to negotiate with another country under our government's closer economic relations policy. In effect it would prevent New Zealand architects taking advantage of the generally more liberal worldwide free trade environment because other registration

authorities would not wish to register Australians registered by the AERB under the TTMRA legislation.

To illustrate this point AERB is currently having discussions with the Board of Architects of Singapore and the trade negotiations, their version of New Zealand Ministry of Foreign Affairs and Trade, with respect to a possible mutual recognition agreement between the two registration boards under the current CER negotiations. Should your recommendation be adopted, then negotiations will fail as Singapore will not want to register "hopeful designers" from Australia who have been registered in New Zealand because of the provisions of the TTMRA.

**PROF SLOAN:** The trouble is you're reading out a whole lot of things which I suspect you know are not true.

**MR PATIENCE:** Yes, I'm going to correct whatever is - - -

**PROF SLOAN:** I think that's a really silly thing to do. I mean, you should take this seriously. We have got information from your Ministry of Foreign Affairs and Trade which is absolutely contradictory to what you're saying.

**MR PATIENCE:** Yes, I will explain why.

**PROF SLOAN:** So it would be better not to say it in the first place, wouldn't it?

**MR PATIENCE:** Not necessarily.

**PROF SLOAN:** I mean, those arrangements between New Zealand and Singapore are just by way of a bilateral trade arrangement. It's got absolutely nothing to do with CER or Australia.

**MR PATIENCE:** Indirectly it has.

**PROF SLOAN:** No, it hasn't. I mean, we've got advice from your Ministry of Foreign Affairs and Trade which we're happy to pass on to you.

**MR PATIENCE:** No, that's right, you got your advice the same day I got my advice. They had previously advised us incorrectly which was the reason that the submission made to you in writing was couched in the way that it was.

**PROF SLOAN:** I'm just worried about something being said which you now know is wrong. Why would you say it?

**MR PATIENCE:** All I'm doing is repeating the submission that was made to you in the first instance.

**DR BYRON:** Can you give us the amended version then?

**MR PATIENCE:** I will certainly do that.

**DR BYRON:** This one is already on the Web site. It's already in the public domain, so adding it to the transcript is duplicating, and I guess I'm now much more interested in the amended version.

**MR PATIENCE:** All right. I will deal with that. Preliminary investigations - and I've moved on to Supplementary Comments. Preliminary investigation suggested that in the event of statutory registration of architects being repealed in Australia, Australian architects registered with a non-statutory body would be entitled to registration in New Zealand under the Trans-Tasman Mutual Recognition Act 1997 and this was the initial basis for AERB making its objection. That was advice that we received from MFAT in New Zealand at that time. The reason that they looked further into this issue was because of a question raised by your commission of them. I believe that you were given the information as to their current thinking within the last couple of days, but I was told on Monday.

**DR BYRON:** We've actually got a copy of the act.

**MR PATIENCE:** Of our act?

**DR BYRON:** Yes, the New Zealand act. It's very, very explicit and there's no way that I can imagine anybody interpreting it the way you did originally.

**MR PATIENCE:** I'm sorry, I didn't interpret it. It was our Ministry of Foreign Affairs and Trade who interpreted it that way. Even now, with their most recent submission as to their current view of the meaning, they have advised us that we need to take independent legal advice to check that their advice is correct. So I don't think it's quite as clear as you're perhaps representing. Anyway - - -

**PROF SLOAN:** Well, hang on. The mutual recognition only applies to equivalent occupations and under the act means:

An occupation for which a person may be registered in an Australian jurisdiction shall be taken to be an equivalent occupation -

blah, blah, blah. You're telling me, in your original submission anyhow, that somehow if our recommendations were put into place, your board would have to - what term did you use, "would-be designers"?

**MR PATIENCE:** Yes.

**PROF SLOAN:** That is wrong, isn't it?

**MR PATIENCE:** I agree that that's wrong, but what I'm saying is that the initial advice we had from our Ministry of Foreign Affairs was that that was the case.

**PROF SLOAN:** Can I read it out again: "an occupation for which" - it's the equivalence, all right?

**MR PATIENCE:** Sure.

**PROF SLOAN:** Yes, and if there's going to be mutual recognition, it would then be, for example, in the case of the accountants and the engineers - believe me, there are plenty of Australian engineers and Australian accountants who work in New Zealand. Would you agree with that?

**MR PATIENCE:** I don't know. I can't comment.

**PROF SLOAN:** Well, I'm telling you there are.

**MR PATIENCE:** Okay. I will accept what you say because I don't know any different, but what I'm saying is that the advice we have now received is consistent with your advice. So the net result of this is that the opinion given to us now relieves our concerns. But we have been advised - and I believe this is correct also - that TTMRA is effected between the New Zealand and the states and territories of Australia. So while the situation may well be that self-regulation would not force AERB to register Australian architects, we could end up with a situation whereby if some but not all states and territories followed the recommendations of the Productivity Commission, we would be in a situation where certain people we would be obliged to register and certain other people we would not be obliged to register.

**PROF SLOAN:** We don't have Australian architects, let me remind you. We have registered architects of Tasmania or registered architects of South Australia. There is no such thing as an Australian architect.

**MR PATIENCE:** Agreed.

**PROF SLOAN:** Okay? We have mutual recognition between those states, and it seems to me, just like the constitution said, New Zealand is like another state of Australia at this point.

**MR PATIENCE:** You're trying to wind me up now, and I'm not going to be wound up.

**PROF SLOAN:** It's in our constitution.

**MR PATIENCE:** But the point I'm making is that from our point of view, this would create complications, and that's all I'm saying. You don't have to be concerned about that, but I'm making the point that this would certainly create complications for us.

**DR BYRON:** So just to clarify, if say Victoria and Queensland were to decide to keep their existing legislation exactly as it is, people who are registered under

statutory legislation in those states would automatically be required under mutual recognition to register in New Zealand.

**MR PATIENCE:** To register, yes.

**DR BYRON:** Somebody who wasn't registered under any statutory system - you wouldn't be required to accept them.

**MR PATIENCE:** Correct, as I understand it.

**DR BYRON:** You could, if you thought that somebody had appropriate qualifications, experience, expertise or whatever, but you would then have the discretion on the basis of whether or not you deemed equivalence to accept somebody, so that if the most eminent architect of Tasmania - say Tasmania was to repeal their existing statute - applied for registration in New Zealand, you could say, "Yes, we'll have him," but if Fred Smith down the road with no credentials and nothing else applied, on the basis that a state would have no legislation, you don't even have to consider it and if he didn't come up to equivalent standards, you would reject him anyway. So there's absolutely no way that New Zealand is forced to accept anybody who you wouldn't already accept.

**MR PATIENCE:** No, that is correct.

**PROF SLOAN:** The first part of that scenario is exactly how it sits. I mean, if you've only got 54 - bear in mind this is a profession which has probably got between 8 and 10 thousand people in Australia, so it's not so micro - you're going to be able to assess each one individually, aren't you?

**MR PATIENCE:** I'll carry on and deal with that, but the simple answer to your question is that we wouldn't have the liberty to decide who we would like to register and who we wouldn't. Our act tells us that in the event of statutory registration being repealed in Australia, we would be obliged to treat them under section 16(1)(c)(ii) of our act, which means they're treated as any other foreigner would be: if they have a recognised certificate, they go through the hoops, the same way that anybody else would be.

**DR BYRON:** If there was still the state system but no national legislation, if it was fragmented, I still don't see how you could be required to accept anybody that you wouldn't accept under the current situation.

**MR PATIENCE:** I'm not saying we would. What I'm saying is that currently we have a situation where it is very easy to administer the TTMRA because it is consistent across all the states and New Zealand.

**DR BYRON:** But all that would change is that you would automatically accept people from the states that still had an architects act and you wouldn't automatically from other states; you would have to look at them.



**MR PATIENCE:** No, all I was saying is that increases the difficulties for us, that's all.

**PROF SLOAN:** It's not a tidal wave of applicants you've had so far.

**MR PATIENCE:** No. I would agree with that too, but there is a further issue that arises also. That is, we mention the current discussions that are going on with Singapore, which we are hopeful will lead to a further reciprocity agreement as between the architectural professions of Singapore and New Zealand based on a registration system. We're aware that the Singaporeans are jealous of preserving their position relative to any reciprocity agreement they enter into in terms of any other third party that might be a party to one of those members of the reciprocity agreement. We would be prevented, even if we had the power under our legislation, I believe, from registering people at our whim because we would have a constraint from our reciprocity partner, if you take my point.

**PROF SLOAN:** According to your ministry, in terms of negotiations with Singapore, they're saying:

The negotiations between New Zealand and Singapore are not occurring under CER. It is a bilateral negotiation which is being conducted between two parties, New Zealand and Singapore.

I must admit this is getting a little way off the scent for us, I think.

**MR PATIENCE:** Sure.

**PROF SLOAN:** Is your concern really that if Australia were to move to a system of self-regulation, then you'd look like an orphan over there with your system?

**MR PATIENCE:** No, not particularly. The point I'm trying to make is that there are trade issues which would be disadvantageous to Australia, I would imagine. They would not really concern us to any great extent, but I would suggest that - because at the present time New Zealand is committed to a regulated environment - we would probably look to the US or somewhere for additional expertise in the architectural sense rather than Australia in the event of a totally deregulated situation in Australia.

**DR BYRON:** Could I put the proposition to you that I put to everybody else when we talk about the international trade thing. It seems to me from my personal experience as a client in Asia that architects are selected on the basis of their excellence, their reputation, their proven skills, their demonstration. I inspected enormous numbers of the buildings, golf courses, resorts and five-star hotels and all the rest of it trying to find people whose work we liked as a client. In interviewing prospective architects from eight different countries, the question of, "Do you have

statutory registration in your home country?" never once came up, as I said this morning.

It seems to me that Australian architects or any other group of architects get their work very much on the basis of the quality of their work, their skills, their expertise, their creativity and everything else, not on the basis of the fact that, "I'm a registered architect in the Northern Territory," or, "the state of Tasmania," or something like that. I would think that we could make a fairly plausible case that Australian architects who have the skills, expertise, quality, brilliance to get work in New Zealand or Indonesia or China today would still have those same skills, expertise, brilliance tomorrow if Australia had a self-regulatory system. The change in the regulatory system wouldn't suddenly make all those skills, experience, reputation, vanish overnight.

**MR PATIENCE:** No, I agree with you entirely, but they wouldn't be able to do the work in New Zealand. I mean, that's just a simple fact. They can now - - -

**DR BYRON:** No, you said that you don't have reservation of practice, only of title.

**MR PATIENCE:** No, they could do the work if they were able to do it under the guise of being a building designer or something or other, but they couldn't do it under the guise of being an architect in New Zealand.

**DR BYRON:** They couldn't use the title in New Zealand if they weren't registered.

**MR PATIENCE:** No, and as a consequence I am not aware of any major work where government money has been spent in New Zealand in the last however long where a non-architect has done any major building work.

**DR BYRON:** That's interesting.

**MR PATIENCE:** In other words, what - - -

**PROF SLOAN:** Hang on. They're not non-architects, these people.

**MR PATIENCE:** No, in our sense, because we have a defined term, they would be in a position where they would be obliged to enter into a consortium with a New Zealand firm and be the junior partner not named, which would put them at an economic disadvantage, and I would suggest they would probably not be interested in doing the work.

**PROF SLOAN:** It's funny you should say that, because we had the Association of Consulting Architects come to us in Sydney. They were really from the big end of town and they do a lot of work overseas, particularly in Asia, and they said it is just not a consideration; they're not even asked.

**MR PATIENCE:** Well, I can't comment on Asia, so - - -

**PROF SLOAN:** It seems to me that associations say this hypothetically, but I'm actually more interested in real evidence, and here are real live architects who say it is not even a consideration in securing large projects overseas. So who am I supposed to believe, one who is putting it forward as an assertion or someone who's actually providing evidence?

**MR PATIENCE:** What I'm saying is that the law of New Zealand is such that an Australian firm cannot come to New Zealand and practise and call themselves an architect unless they are registered in New Zealand. This is not an assertion; this is a fact.

**PROF SLOAN:** Yes, but they're not prevented from getting work. You're just telling me that in practice they are prevented from getting work.

**MR PATIENCE:** That's the way it ends up working, correct.

**PROF SLOAN:** Yes, right - you think.

**DR BYRON:** But we've also been told that often in states of Australia, if someone eminent from overseas is selected for a particular contract, they can very quickly be added to the register of a state, that if one is a famous Italian professor of architecture or something, it takes - - -

**PROF SLOAN:** They just give them honorary registration.

**MR PATIENCE:** That might be the Australian way. It's not the New Zealand way. I'll give you an example.

**PROF SLOAN:** So you don't want eminent international architects working in New Zealand. Is that the point?

**MR PATIENCE:** They're not interested at the moment. We haven't had it as an issue. But we have had the issue of an eminent Australian architect - well, probably not eminent but a senior member of the Australian profession - who attempted to register in New Zealand and was declined, whereas one of his employees was registered. That has happened on more than one occasion.

**PROF SLOAN:** Why was that, notwithstanding - - -

**MR PATIENCE:** He wasn't good enough.

**PROF SLOAN:** Okay. We're not good enough for New Zealand?

**MR PATIENCE:** He couldn't pass our exam.

**PROF SLOAN:** Okay. So this was prior to the mutual recognition.

**MR PATIENCE:** Exactly, and that would happen again. I mean, all I'm saying is I don't see why - - -

**PROF SLOAN:** That might also look like a restrictive practice.

**MR PATIENCE:** It would be a restrictive practice if you were saying that we weren't conducting our examination on a proper basis, but I would regard that with some concern, if you were going to make that sort of allegation, because I think that would be unjustifiable.

**PROF SLOAN:** But now of course that person would be registered through your mutual recognition arrangement - - -

**MR PATIENCE:** Correct.

**PROF SLOAN:** - - - which you think is so good, which you don't want disturbed.

**MR PATIENCE:** I'm not saying that.

**PROF SLOAN:** So you don't mind it being disturbed?

**MR PATIENCE:** What I'm saying is that that statutory backed registration gives us the advantage of having some certainty in terms of the people that we register.

**PROF SLOAN:** But you just cited a case of someone who was registered in Australia and you didn't think was good enough in New Zealand.

**MR PATIENCE:** Yes. That's probably the exception that proves the rule. I'm sure not all senior practitioners in Australia are incompetent.

**DR BYRON:** I would hope not many at all.

**MR PATIENCE:** Exactly, but there are always going to be the odd ones.

**DR BYRON:** Did you have some more that we interrupted you on?

**MR PATIENCE:** No.

**DR BYRON:** Because that brings me back to one of the earlier points, where I think the exact words are:

Self-regulation will not necessarily mean the same stringent requirements that are in place now under statute will be maintained in the future.

We've had evidence from all the Australian states that we have visited that basically concedes that there are stringent requirements and that the current statutes have a number of fairly significant defects. What we're proposing in the draft report is a system of self-regulation which would be even stronger, in the sense of the quality control and even more informative in the sense of consumer protection. So I'm somewhat surprised that you attach such importance to the stringent requirements now in place under the Australian state statutes when a number of the states are conceding the requirements are very lax and have huge holes, like the person who can be registered but be driving a taxi for 15 years. It's not a register of people who have currency or people who are practising, it's a register of people who have at some time in their life been eligible to use the title.

**PROF SLOAN:** And remain eligible forever, irrespective of what they do. So it's not an ongoing assessment of competence at all.

**DR BYRON:** And when one state tells us that proven incompetence in a judgment by a Supreme Court in that state isn't grounds for removing somebody's name from the register which makes us wonder, well, how bad do you have to be before you do get deregistered and how rigorous are the disciplinary procedures in the sense of consumer protection? Also, in the sense of restrictive elements, we have had submissions in all the states we've been in - not in Victoria, I think, all the other states - of people who have been registered and practised architecture in other countries but have been denied registration in Australia, and their implication, their assertion, has been that it's been on racial or ethnic discrimination sorts of grounds, rather than the quality of their expertise and their competency.

We have concerns about restrictive elements when we see how few the number of registrations are each year compared to the number of graduates, that if in most states it's only 10, 15 or 20 per cent of people coming out of the universities after having spent five years in a gruelling course. Why would people suddenly decide, "I don't actually want to be registered as an architect after all," and go off somewhere else? It hints that there might be elements of restriction in there. It seems to me that what this is all adding up to is that the current state based systems are not really that attractive. What we were proposing is a self-regulatory system that would have much more transparency in the entry, much stronger disciplinary procedures and be much more informative about quality, competency and skills, and would also happen to meet all the national competition policy requirements.

I thought what we were suggesting would be a significant forward for the architectural profession, rather than the status quo. We look at the National Register of Professional Engineers and how that has worked. We've looked at the relationship between the National Register of Professional Engineers in Australia and its counterpart in New Zealand and how they had their mutual recognition system and it seems to be working very well, in spite of the fact that neither is statutory, and we haven't been able to find evidence of complaints. We have found out about the APEC engineers system that's going into operation next month and how rapidly that's

growing, and start to wonder if it's possible for engineers and for a number of other professions to have a strong, highly credible, effective, self-regulatory process - - -

**PROF SLOAN:** National.

**DR BYRON:** National, yes - why does everybody tell us that it's inconceivable that architects could do something similar?

**MR PATIENCE:** Are you asking me the question?

**DR BYRON:** Yes. I think there's a question in there somewhere.

**MR PATIENCE:** I was wondering where it was.

**DR BYRON:** It was more of a statement than a question.

**MR PATIENCE:** It's not for me to comment. Firstly, I can't comment on a lot of the matters you just raised because you are matters that you know about and I don't. I come from a different country, so I don't know whether there are defects in the act of South Australia or whatever. What I do know is that our experience from New Zealand has been that the requirements for registration in Australia, in our view, as New Zealanders, are exemplary and we do not have a problem with them, other than the fact that the absence of any national legislation makes the mechanics of dealing with Australia exceptionally difficult because there are eight states and territories in total. From our point of view, things would become a lot easier if there was only one body to deal with.

**PROF SLOAN:** Just be careful. This is a federation. I mean, it's not like New Zealand and there is no constitutional head of power under which you could enact a national architects act at the moment and arguably, nor should there be, because that was not the intention of those who framed the constitution. It's all very well to say that this might be what you like, but it probably won't happen. You see, in your case with the New Zealand board, is your board one dominated by architects?

**MR PATIENCE:** No, it is not dominated by architects. We have a majority of people who are not architects.

**PROF SLOAN:** But you're the chairman and you're an architect?

**MR PATIENCE:** Yes, of a board of 13 people there are four who are nominated by the Institute of Architects. All the rest are nominated by the minister of consumer affairs, minister of commerce, minister of education, etcetera etcetera.

**PROF SLOAN:** Do you also just confine your registration arrangement to a one-off registration arrangement?

**MR PATIENCE:** We have a one-off registration arrangement, that's correct.

**PROF SLOAN:** So people aren't required to undertake continuous professional development to maintain their - - -

**MR PATIENCE:** There's no compulsory CPD, no.

**PROF SLOAN:** And no professional indemnity insurance, for example?

**MR PATIENCE:** No, because that's not a logical thing to do, in our opinion.

**PROF SLOAN:** So it just contains that one bit of information?

**MR PATIENCE:** Correct.

**PROF SLOAN:** So someone has, once upon a time, passed the one-off registration process and has not done something so terrible as to qualify them for deregistration?

**MR PATIENCE:** That would be correct.

**DR BYRON:** Can I ask when the New Zealand act first came in? Is it of the same vintage as the Australian ones?

**MR PATIENCE:** No, it's a lot younger. We had a co-regulation system in New Zealand from 1908 which failed, which is why we ended up with statutory registration of architects in 1963. For example, when I graduated in 1961, immediately before the Architects Act, to become registered, all I had to do was work for two years, write a letter to the Institute of Architects who were given the authority to register architects, and they sent me back a certificate and said, "Here you are, you're now a registered architect."

**PROF SLOAN:** And were you a bad architect?

**MR PATIENCE:** I was hopeless at that stage, obviously. Two years out of school, I thought I knew everything and I absolutely knew nothing.

**PROF SLOAN:** But were you alone in being hopeless?

**MR PATIENCE:** No, we were all hopeless.

**PROF SLOAN:** So it didn't really make any difference, did it?

**MR PATIENCE:** It does now. I have a son who applied for registration in New Zealand and we declined him, and he's properly better than I was at the same age.

**PROF SLOAN:** Do you have restrictions on the derivatives, so - - -

**MR PATIENCE:** No. You can be a computer architect. That's purely - - -

**PROF SLOAN:** But what about calling something "architecturally designed"?

**MR PATIENCE:** No, there's no problem with that.

**PROF SLOAN:** Does that create havoc?

**MR PATIENCE:** No. It is the representation of the word.

**PROF SLOAN:** The architects over here don't like the idea of liberalising the - so you're really talking about reservation of title.

**MR PATIENCE:** Reservation of title, absolutely.

**PROF SLOAN:** So the derivatives, don't worry about. We have weirdo arrangements like you have to have a certain proportion of directors.

**MR PATIENCE:** No.

**PROF SLOAN:** None of that, no.

**MR PATIENCE:** No.

**PROF SLOAN:** So you survive quite well without that?

**MR PATIENCE:** Our act relates entirely to individuals. There is no registration of practice. That does cause us problems. We recently brought an action to the High Court against a company that called itself an architect, that wasn't an architect and had no architects working for it.

**PROF SLOAN:** Did you win?

**MR PATIENCE:** No, we didn't, we lost. The High Court quite rightly pointed out that protection of title relates to individuals, not to incorporated bodies.

**DR BYRON:** So they got away with it?

**MR PATIENCE:** Yes.

**DR BYRON:** I assume that they're actually doing architectural building-type work?

**MR PATIENCE:** No, they're not actually. They liked the idea that it looked good on their letterhead - seriously. They're actually project managers - - -



**PROF SLOAN:** Therefore it wasn't creating problems, was it, if they're not even working in the same market as architects?

**MR PATIENCE:** No, for them it wasn't.

**PROF SLOAN:** It would seem a rather strange choice of them, I might add. It's a bit like saying I'm going to call myself Judith Sloan, swimming instructor, and then not want to be a swimming instructor.

**MR PATIENCE:** Yes.

**PROF SLOAN:** So there obviously are some differences with the New Zealand act.

**MR PATIENCE:** There are, yes, absolutely.

**PROF SLOAN:** You have the role of protecting reservation of title.

**MR PATIENCE:** Correct.

**PROF SLOAN:** So presumably you try and stamp out the imposters. Is that part of your role?

**MR PATIENCE:** Correct.

**PROF SLOAN:** And to then, what, accredit the courses - - -

**MR PATIENCE:** From the three universities that offer degrees in architecture.

**PROF SLOAN:** And then run the registration exams or administer them.

**MR PATIENCE:** We run the registration exams, correct.

**PROF SLOAN:** And then have a disciplinary - - -

**MR PATIENCE:** A disciplinary tribunal.

**PROF SLOAN:** So how many architects have been deregistered in New Zealand over the years since 1963?

**MR PATIENCE:** Two, I think.

**PROF SLOAN:** It's not many, is it?

**MR PATIENCE:** It's very few. There are other sanctions which are usually used which are suspension - - -

**PROF SLOAN:** Right. Do you think the public in New Zealand are aware of the AERB? Are you one of these very low fee kind too? How much does it cost to get - - -

**MR PATIENCE:** \$150 a year for a practising certificate.

**PROF SLOAN:** It's quite expensive, isn't it? It's cheaper in Australia - the exchange rate, yes, but the New Zealand dollar is not that low.

**DR BYRON:** It's comparable. Do you know - coming back to the trade issues - are New Zealand architects also working in Australia under mutual recognition at the moment?

**MR PATIENCE:** I can't tell you in terms of practices but I understand that there are something in the order of 80 New Zealand architects who are working in Australia. So there are more New Zealanders working in Australia than Australian architects working in New Zealand.

**DR BYRON:** Probably true of many professions, from sheep shearing up.

**PROF SLOAN:** And they were able to secure automatic registration through the mutual recognition - - -

**MR PATIENCE:** I presume so.

**PROF SLOAN:** As long as they were recent.

**DR BYRON:** They should have been able to. I was just wondering about what might happen to them if Australia was to move to a self-regulatory system; presumably they would have the credentials, the expertise, the experience to be able to satisfy an accreditation agency, other than a state board, of their merits and virtues and get themselves on to non-statutory register?

**MR PATIENCE:** I would imagine so. They have already done that in New Zealand so I would imagine they would be able to do that wherever else they went.

**DR BYRON:** I'm sure you heard me say this morning, I think, that we're certainly not proposing a removal or even a diminution of standards, in fact the reserve. The question is whether the accreditation body, to maintain those standards, has to be government backed or whether it could be non-statutory. I think that's perhaps really what we're on about.

**MR PATIENCE:** I gathered that from this morning's discussion, that that was your principal concern.

**PROF SLOAN:** And you have to understand that the presumption in National Competition Policy is that unless you have strong reasons for government involvement that the presumption is there would be no statutory arrangement. I'm not sure that's come across clearly enough to participants that there is a presumption against these kinds of pieces of legislation. I don't know about in New Zealand but these pieces of legislation came about at the behest of the architects. I mean, was that true in New Zealand?

**MR PATIENCE:** I don't know the history of ours; I do know that our co-regulation model was not working.

**PROF SLOAN:** Why was that, do you think?

**MR PATIENCE:** It was 1963.

**PROF SLOAN:** It's quite late.

**MR PATIENCE:** Yes. My memory doesn't quite go back that far. I believe it was introduced by a Labor government. I know the Architects Act was introduced by a Labor government and I think it was on their own initiative, but I can't be certain about that.

**PROF SLOAN:** So those three New Zealand universities, have they been successful in attracting overseas students into architecture?

**MR PATIENCE:** Not particularly.

**PROF SLOAN:** Right. That's notwithstanding the fact that you've got statutory registration.

**MR PATIENCE:** I don't know that that is really the issue for us. The issue for us is that we're a long way away.

**PROF SLOAN:** So are we.

**MR PATIENCE:** Yes, I know, but you have universities that are considerably larger and have considerably more clout academically, I suspect, than ours. I mean, our schools of architecture are relatively secure. We only have 3 and a half million.

**PROF SLOAN:** Yes, but it's the same size as Victoria.

**MR PATIENCE:** Yes, okay. But, I mean - - -

**PROF SLOAN:** They have three architecture schools.

**MR PATIENCE:** Sure. Yes, but the point I'm making is that Australia on the international marketplace is a far more significant economy than New Zealand, and I don't know whether our fees are cheaper or more expensive than Australia.

**PROF SLOAN:** I would have thought it might be cheaper to go - - -

**MR PATIENCE:** I presume it has something to do with the decisions people make.

**PROF SLOAN:** Well, that's just interesting to know that. It seems to me that we're told that all the students will go away if we don't have statutory registration of architects, where as you have statutory registration of architects but you don't have overseas students.

**MR PATIENCE:** We have some but very few, but I don't know the reason for that.

**PROF SLOAN:** I think the point is that it's actually quite a complex set of reasons why students head in one direction rather than another.

**MR PATIENCE:** I agree. Could I make one response to a point that was made by Dr Byron.

**PROF SLOAN:** Yes, sure.

**MR PATIENCE:** A comment was made about the numbers of graduates relative to the numbers graduating. We have a similar issue in our country and University of Auckland is currently conducting a study because we don't know why this is happening. We're examining graduates from the past 10 years, tracking those who registered, those who haven't. The ones who haven't are being written to, and we're trying to establish what they are now doing. The theory or the hypothesis that's being tested is that architecture is seen as an alternative general education by a lot of students, so that not all people entering architectural school are necessarily committed to the principle of becoming a practising architect. Now, whether that is correct or not, I don't know. But we do know that there are significantly less females coming through for registration than males and that of course is a matter of concern for us. We want to know are the barriers to female graduates becoming practising architects - - -

**PROF SLOAN:** No, I think there are some very serious issues there, and it also goes back to that anomalous situation where you have bachelors of architecture working as architects, but it's illegal to call themselves architects. We've found instances of that with women working as sole practitioners, perhaps part-time, perhaps doing additions, renovations and the like, but it is illegal for them to call themselves architects. That actually worries me a little bit because I think that's actually adding to the confusion rather than subtracting from it. But that is an issue; there is a very, very high leakage between the numbers of architecture graduates and the numbers of registered architects - huge, really.

**MR PATIENCE:** How big is it in Australia?

**PROF SLOAN:** It's a bit hard to tell because the thing is people move around, so you could go to my state and it might be less than 50 per cent, but then they might have gone and registered in another state and you can't track it. But, you know, it looks as though it's well under 50 per cent of the graduating class end up registering.

**DR BYRON:** I think in some states it's more like 15.

**PROF SLOAN:** Like, in Tasmania they have, what, about a hundred graduates - - -

**DR BYRON:** The man who knows is here but we can't ask him.

**PROF SLOAN:** No, you can't. Well, I thought it was about a hundred.

**DR BYRON:** We can follow that up later.

**PROF SLOAN:** But it's a small fraction. He can tell us later on.

**MR PATIENCE:** Our statistics indicate that there's approximately a 40 per cent leakage at the moment and it is predominantly female architects.

**PROF SLOAN:** But we have had young architects who obviously have known their peer group who say that in a sense that's not true, that people do do architecture with a burning desire to become practising architects and then of course when that can't be achieved then there's a bit of ex post rationalisation that says, "It was a good form of education." Dare I say it doesn't include any economics in it, which is a bit of a pity but I think that research is well overdue, to tell you the truth.

**MR PATIENCE:** Well, it will be available in approximately two years, I think we will have the study completed.

**PROF SLOAN:** Were there other points you wanted to - - -

**DR BYRON:** No, not really, just to come back to what I think was the essence of the whole submission is that a number of the other submissions - dozens, literally dozens of the other submissions that we received - have referred to your original submission. One of the points that has been hammered to us over and over again is that a move in Australia towards self-regulation rather than statutory regulation would very seriously sever the relationship with New Zealand. I think for that reason especially it's really important that we clarify that the potential impacts are very, very much smaller than what were stated in your original submission when you were misled from your - - -

**MR PATIENCE:** Yes, I would have to agree with you about that.

**PROF SLOAN:** But you can feel pleased that it was powerful, your submission, and it was cross-referred to by a lot of people. But that's why I think we have to make it absolutely clear to everyone what the actual situation is, and I don't think you'll be registering the would-be designers. Thanks very much.

**MR PATIENCE:** Thank you.

**PROF SLOAN:** Are you based in Auckland.

**MR PATIENCE:** Wellington.

**PROF SLOAN:** Windy Wellington.

**MR PATIENCE:** Yes, with the other bureaucrats.

**PROF SLOAN:** But that's not a full-time job you have?

**MR PATIENCE:** No, no, I'm a practising architect.

**PROF SLOAN:** You're a real architect.

**MR PATIENCE:** I'm a real architect, yes. I build buildings.

**DR BYRON:** Thank you very much for coming.

**PROF SLOAN:** Have we got now the representatives of the AACA and the Board of Architects of Tasmania? Yes, if you could state your names and affiliations. You're wearing two hats, aren't you, for the purpose - - -

**MR ARCHER:** Yes, if that's all right.

**PROF SLOAN:** No, that's fine - for the purpose of transcript.

**MR ARCHER:** I don't want any puns on that neither, if that's all right - Tasmania.

**DR BYRON:** It never entered my mind.

**MR ARCHER:** My name is David Archer and I'm president of the Architects Accreditation Council of Australia which, with your indulgence, I'll refer to as AACA if that's all right. As you say, I'm also chair of the Board of Architects of Tasmania, and with that second hat on I'd like to make a brief statement at the end of my submission, just for the record.

**PROF SLOAN:** That's fine.

**MS HARDING:** My name is Chris Harding and I'm the registrar of AACA.

**PROF SLOAN:** Okay. Is that based in Tasmania?

**MR ARCHER:** No, Canberra.

**PROF SLOAN:** Right.

**MR ARCHER:** I'm comforted by how much Tasmania has been mentioned.

**PROF SLOAN:** Really, why is that?

**DR BYRON:** Only in the most glowing terms.

**MR ARCHER:** No, I noticed that. I don't know how many eminent architects there are; quite a lot.

**PROF SLOAN:** Can I just make the point that I have a willingness to go to Tasmania but really the truth was that there was not enough interest to justify that.

**MR ARCHER:** I understood that from either Michelle Cross or Margo - - -

**PROF SLOAN:** Yes, and we did in fact in a sense try and drum up some support.

**MR ARCHER:** Yes. There are no feelings there at all, commissioners, I can assure you.

**PROF SLOAN:** Is that because of Tasmania or - - -

**MR ARCHER:** Partly because of the nature of the people in Tasmania but partly because of the reality that no-one showed a lot of interest.

**PROF SLOAN:** Is that right? All right, David, do you want to start off by making some kind of presentation on behalf of the AACA?

**MR ARCHER:** Yes.

**PROF SLOAN:** Okay, fine.

**MR ARCHER:** I'd like to do that and I've got some words here that I'd like to refer to and if you wish I can hand them up if it's of any benefit.

**PROF SLOAN:** Yes, that's probably right. We have read all your material but this is like a summary?

**MR ARCHER:** It is. It is a summary. I've taken it perhaps that by the last submission on the second-last day you heard a lot of the arguments surrounding your draft report.

**PROF SLOAN:** I'd be inclined to think we've heard it all but - - -

**MR ARCHER:** So I thought rather than reiterate those - - -

**PROF SLOAN:** - - - anything novel would be great.

**MR ARCHER:** Well, hopefully there is. But rather than reiterate those, I thought I might just make some points of reflection, if you like, and just cover some broad - because AACA is a bit different from boards and professional bodies.

**PROF SLOAN:** But is it? I just want to tease it out. You're really just the umbrella organisation of the boards, aren't you?

**MR ARCHER:** I don't know if umbrella organisation - we are constituted by the boards, certainly. Without those we wouldn't exist, but we also have - - -

**PROF SLOAN:** So is that an important point? No Architects Acts, no AACAs as we now see it?

**MR ARCHER:** As we currently understand it that would be correct.

**PROF SLOAN:** Although you could be reconstituted.



**MR ARCHER:** Yes.

**PROF SLOAN:** It's not a desperate plea for continued existence.

**MR ARCHER:** The members of AACA that are either here, they would confirm it I think anyway, I'm a very strong advocate of being able to swap hats, so that when we have an AACA meeting, it is an AACA meeting, not a meeting of the various boards, and I've always tried to make that distinction at our meetings because what we ought to be about is progressing the accreditation procedures in Australia as a national council, rather than with our board hats on all around the table.

**PROF SLOAN:** But you're the same people, you haven't got two - - -

**MR ARCHER:** No, we're the same people, yes. There's no two heads anywhere else.

**PROF SLOAN:** Okay. So, you know, that umbrella organisation of the boards, you still don't like that?

**MR ARCHER:** Sorry, I don't like it?

**PROF SLOAN:** You don't like that term.

**MR ARCHER:** I see. It sort of infers that we have any authority. We have no statutory backing. We have no legislative backing. We exist because we have a constitution that says we are made up by nominations from the boards, but we act - as I said, we try to act as a national council, as a group that's doing the best for Australia. But at the end of the day we have no authority to impose any of the decisions we make in council on the registration authorities. It's for them to take back and deal with it.

**PROF SLOAN:** I suppose what I'm saying is, I just want to get in my mind the sort of differentiation between the position you put - AACA puts - as opposed to what the boards put, and is there differentiation or should I regard them as equivalent?

**MR ARCHER:** I think there is, and - - -

**PROF SLOAN:** Okay. Keep going then.

**MR ARCHER:** What I've got here is the words - I think they take about 15 minutes to read, commissioners.

**PROF SLOAN:** Okay, that's fine.

**MR ARCHER:** My preference would be read to them first if that's okay, but if you feel strongly about a point, please interrupt.

**PROF SLOAN:** No, David, that's fine.

**MR ARCHER:** Rather than go through things in detail, I would like instead just to sort of refer you to our document that you've already had and obviously you've read. I'd have to say at the outset, commissioners, that it wasn't an easy submission to make. It was put together through a variety of sources. We had Access Economics help us with the international stuff and we were fortunate in having someone that was familiar with the UK and European Community situation to help us on the international issue as well. I say that because I've got a day job as well and Christine Harding was more involved with putting it together finally, so if I get stuck on a point I will, with your indulgence, refer it to her if I can't answer it.

What I would like to do is make some general points to do with AACCA's role in the accreditation process which might cover the points you've mentioned and explain where AACCA sits in any self-regulated model. I'd like to look at the international issues. I'll cover these not in great detail but they're just points of reflection, as I said. I think the national guidelines are worthy of just a paragraph of discussion - and if time permits make some observations about the other professions that you've mentioned.

Commissioners, your draft report concluded in essence that the existing legislative system has limited effects on competition and it's not expensive to run, but nevertheless the benefit to the public is not outweighed by those costs. In fact, I think you said there was a negative benefit at some point.

**PROF SLOAN:** Negligible benefits.

**MR ARCHER:** Yes, negligible. The conclusion that understandably follows from that is that the acts ought to be repealed. It's very difficult to argue against that, because we're dealing with concepts of public benefit and public interest and they have got ill-defined edges, very fuzzy edges, and the onus is on us to prove otherwise. It's coming from behind in fact to actually reject your argument, so there are some difficulties there. The role of AACCA in this, commissioners, I believe was touched on in your draft report. Without going into it in any great detail, but for the purposes of being recorded, I'd like to briefly explain that role, because I think AACCA has played a fairly low-key position in all of this until now and I think that's been appropriate because of its position.

But I would like to say that, whatever the outcome of the final report, there's an important role for a body like AACCA, if not AACCA itself, to play in any self-regulatory model, be it total self-regulation, a modified statutory system or the status quo, not that I think any of us are arguing for that any more.

**PROF SLOAN:** I think we're agreed so far. We would agree with that.

**MR ARCHER:** Excellent - one and three-quarter pages. I think somewhere in the transcripts of these hearings, commissioners - which I have to note are prepared by what seems to be the increasingly aptly named consultant, Spark and Cannon - you have referred to the existing legislative system as "ramshackle". I looked that up just to make sure what it meant, and it says a state of disorder and rickety, and alongside that word I found one called "shambles", which means total disorder. I don't think I'd go so far as to say that, but certainly AACA is agreed that the system needs an overhaul and a very significant overhaul.

**PROF SLOAN:** I think one of the elements, just to briefly interrupt you there, of it being ramshackle, was in fact so many people seem to want a national system, so it's certainly ramshackle in the sense that there are strange variations between the acts. That's not necessarily an observation on how the systems work within the states, but once it comes to the national system it's certainly looking a bit rickety. I mean, we went round to big firms who found it very problematic to register in different states because there are different ownership rules. So that looks a bit rickety.

**MR ARCHER:** Yes. It is ramshackle.

**PROF SLOAN:** You'd agree with that?

**MR ARCHER:** I agree.

**PROF SLOAN:** We're agreeing on everything, David. Just be careful.

**MR ARCHER:** So far so good. The point about using the word "shambles" is that it isn't in a state of total disorder but it needs that overhaul. What I did was take the "s" off "shambles" and make it "shamble", and that means slow and awkward, and that's probably what a lot of people think of legislation. That was my point there. But I'd certainly have to agree that our federated system leads to shambly procedures.

Christine Harding and myself attended a construction trade conference in Canberra a little over six months ago from China. Admittedly it was through translators, but to try and explain to that Chinese delegation that we've got six states and two territories and eight jurisdictions, eight boards, we have an Institute of Architects with eight regional chapters and an Architects Accreditation Council that until recently had representations from that lot was a shambles, to say the least, quite frankly, and I'm sure they went away shaking their heads and wondering what this place was on about in terms of the architectural profession and how it manages itself in Australia. What they did make plain was that if they wanted to deal with Australia, they wanted to deal with Australia, not Tasmania or Queensland, and that's understandable.

**PROF SLOAN:** So you're national, tick? You want a national system?

**MR ARCHER:** Yes. I'll talk to about what you mean by that but, yes, we want a national system. AACA was created in 1972 because of what I think was a shambles

in those days. Certainly I was sitting for my last exam in that year and it struck me as being very disorganised. There was no coordination of the practice exam, there was no coordination of virtually anything. There were eight jurisdictions all doing their own thing, and I think it was New South Wales that actually initiated the idea of a national body so that some semblance of order could be put into place.

So, as I've said before, AACA comprises nominations from those eight jurisdictions, and I don't know if it's written in the constitution but it has always been the chair and the registrar from each of those jurisdictions. So, the registrars being predominantly lay people, it means that our national council is roughly 50 per cent architects and 50 per cent lay people. I thought that was a point worth making. But, of course, as you say, if the acts are repealed we will cease to exist in our current form.

In those years we have set in place a set of nationally agreed processes covering all aspects of the accreditation procedure in Australia, from course recognition both here and overseas through to competency-based assessment. We're one of very few major professions, if you like, that have competency-based assessment programs in place, and this year we introduced the practice exam on a national basis. We believe that that was an important step so far as the transparency issue is concerned. The written exam is now conducted at the same time on the same day throughout Australia with exactly the same written paper. There are no parochialisms involved at all. Candidates for it are given pre-exam seminars. They're given reasons for failure if they fail and they have post-exam counselling. It's the first year that AACA has done it this way and there are some finetuning issues being exposed, but we think, mindful of that transparency issue, that it goes a long way towards doing that and we're pleased we've had - - -

**PROF SLOAN:** It wasn't always so, was it?

**MR ARCHER:** No, it wasn't always so and it has led to a lot of - - -

**PROF SLOAN:** Bitterness.

**MR ARCHER:** Bitterness - yes, it could be bitterness - the inconsistency between the states. The inconsistency between the written exams between the states has caused some students leaving to go somewhere else because the perception is it's easier there. That was an issue that we felt we had to take on board, and we've done it in conjunction with the eight registration authorities. We needed their agreement to all of this. We've also produced a training video for examiners so that they're approaching the exam in the same way hopefully, and we're in the process of producing one now for candidates, so that by the end of this year we will have a system in place for that that I think will be as transparent as possible - hopefully so.

**PROF SLOAN:** Can I say all these good things, though, have occurred really without any government prodding or pushing. You've got together as a sensible group of people and figures out to do, not unlike the engineers.

**MR ARCHER:** I suppose the only connection with the government - there's always the implied authority of a registration board not to do it. I suppose that's the only connection you could make with - - -

**PROF SLOAN:** Yes, but this has really been in the context of unchanging acts. The actual practice of certification, so to speak, has been reformed essentially.

**DR BYRON:** You've reformed the process although the laws haven't changed.

**MR ARCHER:** Well, yes. I mean, the acts - - -

**PROF SLOAN:** But doesn't that tell you what sensible people you would be if you self-regulated?

**MR ARCHER:** Yes, that's right, but the acts, as you point out, are different in each state. An act in one state might say that you have to be satisfied with the postgraduate experience and the board in that state might say, "We will use the AACA practice exam as a way of satisfying that requirement." Another state might say, "You will pass the AACA practice exam before you're entitled to registration." So there's just a mixture. It's not that we've reformed the system; we've just helped, I think, coordinate it and make as consistent as possible throughout Australia by allowing boards to interpret those words in their acts as they want to.

**PROF SLOAN:** We had a rather sort of impassioned plea for the role of government. The truth is the government - whatever the government is, I might add - - -

**MR ARCHER:** Which government was this, sorry?

**PROF SLOAN:** Well, exactly. No, this morning - that the government was the font of all knowledge and wisdom and safeguards and the like. But in a sense you've got on as a profession really and done this within those acts. There's nothing in the acts which has said, "You must have a national examination system. You must have - - -"

**MR ARCHER:** There is in some, yes. That's my point: there is some, there isn't in others, and this is an attempt to make it consistent.

**PROF SLOAN:** It's basically because you're sensible people.

**MR ARCHER:** I still say at the end of the day - - -

**PROF SLOAN:** You'd agree with that, wouldn't you?

**MR ARCHER:** Of course I would agree with that - eminently sensible, yes. I still say, commissioners, that at the end of the day the people around the table at a AACA

national conference still go back and resume their position as boards under legislation, so it doesn't go quite as far as you're making it, in my view. But I take your point.

**DR BYRON:** All the changes were made because they deserved to be made, not because any parliament told you to go out and make them.

**MR ARCHER:** That's correct.

**PROF SLOAN:** It seems to be one of the sort of interesting bits of this story, and I think you introduced it really fairly, because after all we weren't charged with reviewing, say, the AACA legislative guidelines; we were charged with reviewing the acts. Okay, we were asked to assess whether or not they actually continue to exist, including improvements, and, if you look at our chapter 9, there's a lot of discussion of that. But it comes back to what is the role of statutory registration. Why is that needed?

**MR ARCHER:** Can I move on to that then?

**PROF SLOAN:** There you go.

**MR ARCHER:** Thank you very much. Just to finish up with AACA and where it sits with self-regulation, I think we just make the point that I think we're slightly different from a lot of other bodies in this view. We're not a board with a direct connection with the registration process, we're not a practising architect, we're not a professional body, and we certainly don't represent the learned society for the profession, so it doesn't have that interest either, and it has no vested interest, we believe. There are some jobs that will go, but that's that. The point of making that statement, commissioners, is simply to say that hopefully what we've said in our submission and what I say here is we're seen with as much objectivity as possible.

That's the only point I'm making with that. The other point also is to emphasise the importance in our view of not dismantling that system of accreditation. You've said there's no need to; it can go on exactly the way it is now. We just emphasise the importance of that.

**PROF SLOAN:** I go back to this point, though, that your legislative guidelines have been on the table for quite some time. When we go round the states we seem to hear repeated stories about, "Oh well, we know the act is no good and we've tried to get it changed, but the minister" - but the trouble is, no-one seems that interested in improving these acts. Okay, they got some minor changes in Victoria which probably did improve things, but not enough.

**MR ARCHER:** Yes. I think they nearly got there in New South Wales too, didn't they?

**PROF SLOAN:** Yes, but also, if you read through the history, including one of our amusing submissions, a lot of these acts have come very close to being abolished in the past too. So it's been improve or get rid of and, if I could be a delicate petal - and that's why I've been annoyed really at the way a lot of architects have reacted to the report - we're really saying in effect that, you know, why don't you get on and do it. You seem to be mucking around all these years, and ministers - ministers will always change, you know. The idea of actually getting a national statutory system seems incredible to me because it would involve all the state governments ceding their powers to the Commonwealth. Now, you come from Tasmania. It doesn't matter what the issue is - I mean, do they fall over themselves to cede powers to the Commonwealth?

**MR ARCHER:** They sometimes raise the issue of seceding which would introduce other problems.

**PROF SLOAN:** That's actually going in the other direction I think.

**MR ARCHER:** That's right. But I mean, I think we know what - - -

**PROF SLOAN:** Some people would be happy to see you go actually, David, so - - -

**MR ARCHER:** Thank you very much. All is goodness undone. You can't do that because we've got the same area code as Victoria.

**PROF SLOAN:** Fair enough, okay.

**MR ARCHER:** Getting back onto that point, I mean, we know what the political situation is like. We know there are 8000 to 10,000 architects in Australia which is not a big deal in the overall scheme of things and it's probably a lack of interest that's reviewed the acts and done nothing about it as much as not to push them forward into a modern act as well. So I don't know how you overcome that. Hopefully this might be the catalyst for it.

**DR BYRON:** I would say it's more apathy than opposition.

**MR ARCHER:** Apathy, yes. It keeps going to the back of the political table, I would suggest.

**DR BYRON:** It's a battle that I don't think many politicians are interested in fighting one way or the other.

**MR ARCHER:** I know from our experience we've actually been through three separate governments trying to get this done and a range of ministers and the current one is the deputy premier and there's a lot of support for it, yes; the rhetoric is all there in the words but it's difficult to get it done and you can't do it without them.

**PROF SLOAN:** You say that but when I rang through to Tasmania to speak to the chief political adviser I said that I'm ringing up to talk about your architects act and he said, "Have we got an Architects Act?"

**MR ARCHER:** He was about fifth or sixth in a long line of political advisers.

**PROF SLOAN:** I didn't think that was a good start, David.

**MR ARCHER:** No, perhaps we should push on now. Just a few words on the international issue and in response to your draft we have placed some emphasis on that as I'm sure you've read and I think we did that as a result of your invitation at the presentation of 2 May to go into those issues a little more. We have done that. We've outlined those issues so far as mutual recognition with the UK is concerned and the context in which that project is being pursued. We dealt with other issues as well, including education and trade.

Commissioners, it's appreciated that statutory protection of the title "architect" in Australia might not always be necessary to liberalise trade in the architectural profession with the rest of the world. We accept that but if you've narrowed trade down to "architect" we believe there is an issue there. Now, we are anxious to avoid the criticism that I've read in the transcript, that we just want to retain the legislation because it's there. I don't think it's as simple as that. We don't want to hang onto it just because we've got it now.

What we do urge is that in a world where pretty well without exception those countries that have got statutory systems of the regulation of architecture in place have not only got them but they've in many instances survived scrutiny - we would just raise the issue about - a system would be developed which might put Australia out at least on a limb, if not at some sort of disadvantage when it comes to trade. You can't assert that that's going to happen but if the rest of the world was self-regulated we wouldn't be here now. That's my point. The rest of the world is regulated and - - -

**PROF SLOAN:** I hope that's architect designed, that thing.

**MR ARCHER:** So it's just the context thing that I would like to bring to your attention, that's all.

**PROF SLOAN:** Yes, okay, I think that's an important point.

**MR ARCHER:** I was going to comment, perhaps because of this innovation we might be seen as being put at the forefront of regulatory systems in the world and certainly the - what is it, the task force on industry and business self regulation - yes, draft report, that makes that assertion that Australia is at the forefront of self regulation.

**PROF SLOAN:** What, generally speaking?



**MR ARCHER:** Well, it's headed Industry and Business. So I would follow that statement with the comment that it probably doesn't deal with the professions.

**PROF SLOAN:** What's your view on this issue of the leakage between the number of architecture graduates and then the number of registered architects?

**MR ARCHER:** Well, what I know about it is the situation in Tasmania and I think there are about 50 graduates a year there but you have to distinguish between graduates in what we call environmental design and those that go on and do architecture. When it comes to architecture - it's the way the course is structured, you see. Everyone starts off doing environmental design and you get a bachelor of environmental design. It's a three-year course I think. The units taught are - and I might have to verify this if you wanted me to be entirely accurate - the units taught are basically exactly the same for all the students doing environmental design.

At that point students can go on and do landscape architecture or architecture or quantity surveying. So there's this broad environmental design course first which is where the 50 graduate. This is my understanding, but there's only about 15 that actually graduate in architecture.

**PROF SLOAN:** It is certainly true nationally that there are many more architecture graduates, even if we lag it, than there are registered architects. There's no doubt that there is leakage.

**MR ARCHER:** I would just say, let's be certain about what we're calling architects.

**PROF SLOAN:** That's true.

**DR BYRON:** And if on average 15 a year are graduating, you know, two, three, four years after that there's, what, four a year presenting themselves for the practice exam?

**MR ARCHER:** Yes, there wouldn't be more than six in Tasmania.

**DR BYRON:** That worries me too because it suggests a leakage. People who just want a good general education can do the three years and out. I would assume that anybody who actually does the five years is there because they really want to be - they want to do architectural work. They want to make great buildings and sculptures and dreams and things, whether or not its got a tick, I won't enter into that argument, but to say that 15 actually go through this very demanding, gruelling course for five years, that on average three-quarters of them don't then proceed to registration, and we've already taken care of the ones who are just after a nice general environmental education, that suggests that there's something untoward going on I think, especially as most of the ones who drop out are women. Is there a systematic bias?

**MR ARCHER:** Well, I would hate to think that was the case but I don't know that it's untoward. I think there is a much bigger social issue to do with that than just something being untoward or biased.

**DR BYRON:** I would think that say 99 per cent of people who do a five-year medicine degree would then go on and say, "I want to be a registered medical practitioner and I want to do it."

**PROF SLOAN:** And they do. We know the leakage is virtually zero.

**MR ARCHER:** I know, and the money is fantastic.

**DR BYRON:** Why do the five years at university and then not do the rest unless there is some impediment or obstacle or barrier or something there? Either that or it's unnecessary.

**MR ARCHER:** You would have to ask some of them. No, I don't think it's unnecessary. I mean, I - - -

**DR BYRON:** No, for certain niches that people want to go into, if they want to be very specialised in documentation or something they might say, "Well, I don't need to be registered. I'm just going to work in - - -"

**MR ARCHER:** I was somewhere recently, and I can't recall where it is. If I do I'll let you know as we go on - but it was an argument to do with the intellectual rigour of problem solving in that broad design sense and that a lot of people take that on board and do that five years, they actually go off into film set designs and they design little cities, if you like, for Hollywood. They use those skills to do that and a lot of them I understand have been quite successful at it. So there - - -

**DR BYRON:** How many Tasmanians a year would do that? Not one.

**MR ARCHER:** I think, no, we don't make many movies in Tasmania. We make some but - we've made some.

**DR BYRON:** I believe it invests but I don't think - - -

**MR ARCHER:** I don't know the answer to your question, Dr Byron, but I know that it is a profession where people do a fair bit of contemplation before they decide to take the responsibility of it on. They need to be sure that they're ready and I know that from personal experience. They get a year out, they've done a year involving - on their course, they do another year after graduating, and a lot you will find might say, "We've had this fantastic training, intellectual rigour and problem solving, so that we can apply that to the problems but I just don't think I'm ready yet to go for it."

**PROF SLOAN:** Did you want to say something, Chris? Yes.

**MS HARDING:** Could I make a comment on that? First of all, I think it has to be recognised that a number of the graduates from Tasmania will obviously come to the mainland. The other issue I think is that Tasmania has a high number of international students, doesn't it? So they will be required to return home.

**MR ARCHER:** That's a very good point, yes. We have quite - - -

**PROF SLOAN:** But we know nationally - let's forget that - we know nationally there are many more architecture graduates, domestic architecture graduates, than ever register. There is a big leakage.

**MS HARDING:** I agree with that. I was just trying to talk about the 15.

**MR ARCHER:** I accept that, yes.

**PROF SLOAN:** So what do you think about that leakage?

**MS HARDING:** I think we all have concern about it.

**PROF SLOAN:** Okay. What about this situation where you have bachelor of architecture graduates, B Arch out there, and they work as architects but it's illegal for them to call themselves architects. Does that worry you?

**MR ARCHER:** You have read AACA's view on that but if I put my own hat on, yes, it does worry me. I don't agree with it at all and it's something that, as long as I'm involved with AACA I will continue to push for because it seems absurd to me that a doctor can call themselves a doctor and a lawyer can call themselves a lawyer but an architect can't call themselves an architect.

**PROF SLOAN:** Yes, but they're not. You're just using that in an illegal sense.

**MR ARCHER:** I beg your pardon?

**PROF SLOAN:** You just used that in an illegal sense. There is no legal reservation of title for someone who has an architecture degree and works as an architect. It's actually illegal for them to call themselves an architect.

**MR ARCHER:** I personally don't agree that that should be the case.

**PROF SLOAN:** That strikes me as being - maybe we might add that to the shambles bit of the arrangement because that seems to me confusing and possibly discriminatory.

**MR ARCHER:** Yes, on one hand if there's legislation then it's the legislation that's discriminating, yes, but confusing - I mean, the arguments against my proposition are

that it would be confusing for the public to have two categories of architect, if you like, one that drove taxis and - - -

**PROF SLOAN:** Aren't there other funny bits and pieces? I mean, the woman working part-time doing renovations and alterations, architecture degree, not registered architect, she actually then can't legally differentiate her services with others who are less qualified. I mean, we also had a funny situation - I don't know what it's like in Tasmania, but there's these sort of ownership restrictions on the practices so you have a husband and wife and one of them is not an architect well, that can't constitute an architecture practice because - - -

**MR ARCHER:** Equally absurd in my view, yes.

**PROF SLOAN:** That's a funny one. We had a situation in South Australia, and we've got a South Australian here, which I didn't approve of, where there was - - -

**MR ARCHER:** His presence?

**PROF SLOAN:** I know, but we can't talk to him because he's in the audience. But there was an architect who had a partnership with a historian and they specialised in conservation work which required a lot of historical skills. In fact, one of the jobs they had was to renovate the synagogue in Hong Kong, but the Architects Board, I understand, has been after them because they can't call themselves architects because the majority of them aren't architects.

**MR ARCHER:** I don't agree with that.

**PROF SLOAN:** I think we should be proud of them, not trying to make it illegal. So that goes back to these bits and pieces that you're not so keen on.

**MR ARCHER:** Bits and pieces?

**PROF SLOAN:** The bits and pieces of the act.

**MR ARCHER:** Could I just make some comments about the guidelines because that might put the - - -

**PROF SLOAN:** Yes, because the guidelines are not in for ownership restrictions, are they?

**MR ARCHER:** No. I mean, we accept that it wasn't part of your review to specifically analysis the levels of these guidelines.

**PROF SLOAN:** Yes, that's true.

**MR ARCHER:** Although I think you could read a broad interpretation into your brief.

**PROF SLOAN:** We could in chapter 9 definitely.

**MR ARCHER:** I think AACA thinks those guidelines answer a lot of the criticisms you make about the existing legislation. We would say that the thrust of the guidelines is pretty simple really in concept. It is that you gain architectural qualifications, either through a university course or through the competency based assessment program and you complete your exam and you get onto a register and you get to call yourself an architect. You can become a set designer, you can drive taxis, you can just merge into the background if you want to, but if you want to provide services to the public then the guidelines say, "Let's have a practising certificate," if you like, "which you will be issued with annually. You will only get it renewed if you do satisfactory and appropriate professional development and have appropriate indemnity insurance."

That is a fairly simple concept, we think, and it moves away from the criticism that you have rightly made about becoming an architect in 1956 and just not doing anything but always still being able to say, "I am an architect." That would also, I think - what it would mean is that if you want to practice architecture, you would have to produce this card that said, "Here is my qualification to offer this service as an architect." The guidelines also cover the issue of ownership. We had a lot of debate about that, I can assure you, but we finally got it through that the company structure and the mix of businesses or the mix of professions in that company was irrelevant because the only criteria really you need at the end of the day is if the person providing the architectural service is an architect, that is all that mattered - so they cover that. I don't think they go quite as far as you want with derivatives.

**PROF SLOAN:** Really, because your name is a derivative, isn't it really, so it is probably - is it legal for you to - - -

**MR ARCHER:** My name, John Lee you mean? Someone from the audience spoke then - - -

**PROF SLOAN:** No, in Queensland they had asked legal advice about whether they could in fact tighten up on the derivatives. The legal advice was no, because they would be trying to prosecute people whose names were Archibald and - - -

**MR ARCHER:** Reach?

**PROF SLOAN:** Yes.

**MR ARCHER:** AACA, I am sure with some discussion we could move away from our guidelines approach to derivatives and abolish them entirely. I think they are the three areas - - -

**PROF SLOAN:** What about the kind of empire that we were having sketchily outlined this morning about bringing in the building designers and others into an even bigger system, allied professionals?

**MR ARCHER:** What about it?

**PROF SLOAN:** I suppose if you had self-regulation you might be able to build that empire.

**MR ARCHER:** Yes, I suppose so.

**PROF SLOAN:** What is your view on the Queensland and Victorian system of having essentially a list of competent building service providers embedded within the building act?

**MR ARCHER:** It is going to be forced upon us, I think, because it has had its first reading in Tasmania already.

**PROF SLOAN:** Yes. And the architects will go in there too?

**MR ARCHER:** The Architects Act, so far as I know - I mean, in September last year this was right on the agenda. A month ago upon inquiry it was at the back of the agenda because the Housing Industry Association simply refused to take part in the compulsory insurance provisions or something like that. So they have got a much bigger voice than architects so back to the political table it went.

**PROF SLOAN:** Right.

**MR ARCHER:** But they must have solved that because within a couple of weeks it has had its first reading in parliament and therefore presumably is going to proceed to become an act. With the Architects Act in the - - -

**PROF SLOAN:** The architects will be in the list of - - -

**MR ARCHER:** It talks about building designers. It doesn't talk about where the Architects Act fits into that at all. It presumably is going to exist independently at least for some time but it talks about the government of Tasmania receiving applications for a group to become an accreditation authority. It is conceivable - - -

**PROF SLOAN:** You could then become the approved accrediting authority.

**MR ARCHER:** Yes, that is right.

**PROF SLOAN:** I mean, is that the solution? I mean, as we understand it, when the review came about in Victoria - as I said, which we've never seen, the draft recommendation was that the architect should be put in the Building Act because it is

a competency based system where the accreditation is approved in - you know, as a third party arrangement. There is a requirement for insurance and there's a requirement for re-accreditation so - - -

**MR ARCHER:** There is a requirement to audit their work as well in our act.

**PROF SLOAN:** Yes. So it seemed the more obvious place for them to go. Now, as we understand the process the architect has completely spat the dummy and said, "We're special, don't do it," and that's where it sort of ended. But would it be clean though?

**MR ARCHER:** I will tell you what - my bottom line is just simply this: that I think we need to move from the ramshackle system that we've got now to some system where Australia has architects, not Tasmania and not Queensland and not Western Australia, not South Australia, that someone who wants to do business with Australia, whether it be trade or practice or mutual recognition agreements or anything that covers that, they need to deal with a system in Australia. If the building acts do that, fine. I don't know that they will. My concern - and I think that of AACA is that we need to get to a position where - we have got a statutory system at the moment. It is all over the place admittedly but we need something that is recognisable by the rest of the world as being Australia, not eight jurisdictions. I believe we need that because - - -

**PROF SLOAN:** But you are national.

**MR ARCHER:** Yes, that is right. Yes, I can see how the step is quite a simple one, yes.

**PROF SLOAN:** Yes. See, people say, you know, "Two years isn't long enough." The truth is a lot of this is in place.

**MR ARCHER:** It is too long, yes - if it is going to happen, overnight.

**PROF SLOAN:** Do you want to - - -

**DR BYRON:** I thought David still had a few more points that he wanted to make.

**PROF SLOAN:** We are good at interrupting, aren't we?

**DR BYRON:** I was going to comment about the Warne report, commissioners. That is the architect's one, not the cricket one, no, that's right.

**PROF SLOAN:** That is not the Shane Warne - it might be more interesting, the Shane Warne report actually but go on.

**MR ARCHER:** Try not to anticipate me too much. It has come up from responses in these hearings and I think the responses that I have read in the transcript seem to

be along the lines of, yes, well, the UK reviewed it. They abolished it and then they said, "Oops, we've made a mistake," reintroduced legislation, the inference being - - -

**PROF SLOAN:** That is not true, they never abolished the legislation.

**MR ARCHER:** Didn't they?

**PROF SLOAN:** No. They amended it.

**MR ARCHER:** They amended it, okay.

**PROF SLOAN:** So they never had a period of deregulation.

**MR ARCHER:** Right, okay. There is a sort of an inference in there, you know, "Why don't you take notice of that?" Your response has been to say, "But they completely restructured the board and they abolished derivatives." AACA's response to that is, "I am sure we can work around the derivatives issue." I think if it saved the day we will convince the boards about the structure in any future system, if it gets that far.

**PROF SLOAN:** I don't know whether there was ever any restriction on derivatives in the UK. I think they abolished restrictions on ownership. It is just a complete - it is reservation of title and that's it really.

**MR ARCHER:** That is it, yes.

**PROF SLOAN:** I mean, they had about like 80 people on the council before - - -

**MR ARCHER:** I know.

**PROF SLOAN:** It was unbelievable. So they have pared that back. I think it is a majority lay, just - although, you know, we have been told that with a smaller number of architects it may be that the architects are even more dominant and that a smaller number - but, you know - - -

**MR ARCHER:** Our guidelines propose 25 per cent but I am sure, as I have said, that if there was any way of introducing or maintaining a statutory system. I am sure that problem could be fixed, commissioners. We have touched on who owns the business ones so there is need to do that. I think that is about it. We will continue to argue for a statutory system for the reasons that I have outlined. It is not just because it is there and that we have it now but - if it was nowhere else in the world, well, fine. It would be difficult to argue but if you look at it in that larger context it is pretty important, we think, that we have some sort of statutory system in place and that if that reflected, we believe, the national guidelines reflect a quite contemporary way of approaching that statutory system. It would make it light years than it is now. If it could be somehow achieved nationally it would be easily understandable by people here and internationally.



**PROF SLOAN:** Is that your phone?

**MR ARCHER:** I think it is yours, isn't it?

**PROF SLOAN:** Keep going.

**MR ARCHER:** This is another way of getting an audience.

**PROF SLOAN:** Keep going.

**MR ARCHER:** I have forgotten.

**PROF SLOAN:** You have forgotten?

**MR ARCHER:** Yes, the other point is that - - -

**PROF SLOAN:** National statutory?

**MR ARCHER:** Yes.

**DR BYRON:** What we were asking various people - - -

**MR ARCHER:** Architect means architect in that system and that is important.

**PROF SLOAN:** Except for my B architects.

**MR ARCHER:** If we have the national guidelines architect means architect.

**DR BYRON:** The national versus statutory - because it seems to me that you could tomorrow have a very strong, influential, highly credible national system but it would be non-statutory and that would look very much like the national register of professional engineers. The current board of AACA could reinvent itself tomorrow and rebadge itself as the exact analogue to - - -

**PROF SLOAN:** You would be in the box seat actually.

**DR BYRON:** All the institutional memory, all the apparatus, all the stuff that you had worked on over the last eight years which I think everybody agrees has been a tremendous improvement would all still be there and go forward.

**MR ARCHER:** Yes.

**DR BYRON:** I think the chances of getting that with legislative backing are very slim because I can't quite imagine how it would work. So you can have a national or you could have existing state based systems and hopefully one by one try and get all

the states to move to something like the national guidelines but given the experience of the last eight years in every state and territory, you know, it is going to take a long time.

**MR ARCHER:** I think if it's going to be achieved at all it is as a result of your review that would get it done.

**PROF SLOAN:** I hope you write us a thank you letter.

**MR ARCHER:** Clearly we weren't getting anywhere separately. This is a Commonwealth, therefore a national, review. If there is ever a chance to do that I think it is now.

**PROF SLOAN:** That is probably right.

**MR ARCHER:** I take your point. We would probably have to emulate the commercial Corporations Law and Arbitration Act and get the single act but that it's adopted by the states is probably the only real way that would work.

**DR BYRON:** But again even if we are just counting on the fact that all the states are going to agree to refer or see the relevant regulatory power to the Commonwealth and that the Commonwealth is willing to accept that power - and when there is no evidence to me that the Commonwealth has any great particular desire to be involved in the statutory regulation of architects I - and this is purely conjecture on my part but I think you might be banging your head against the wall for a very long time before you get all that to happen. One of the things that struck me when I went to the annual board meeting of the National Register of Professional Engineers is that after the Trade Practices Commission review in 92 of all the professions, they basically read the writing on the wall and decided that they would come up with a system that was compliant with all the national competition policy and that sort of thing but would, you know, protect the interests of the community, protect the interest of the members, provide a service and enable international trade to go on and all the rest of it.

They have sort of gone on and done it and they have a system there. I mean, I haven't examined it in great depth but it seems to be working both domestically and with the international links. That is one model that we have in mind that would immediately give you a national system and could be actually far more authoritative, credible, providing quality differentiated information to consumers about the competencies. You can have sub-specialisations in it or whatever else. You can have gold, silver and bronze members if you wanted to. There are any number of things that you could do there, that I think would meet the objectives that everybody involved in this inquiry has in mind except that you won't have a tick from the government.

It will be a non-legislation based system. So that's why I keep coming back to the point that we need to have a highly credible, authoritative accreditation body that needs to maintain and approve standards and all those sorts of things - no debate

about that. All we're arguing about is whether the accreditation body has to be government backed or not. We've seen so many other professional groups - not just engineers and accountants and urban planners and landscape architects and financial planners and so on - that we come down to the point, "Well, why is it that architects have to have a government backed system when all these others seem to be doing reasonably well without that?"

There's enormous areas where we're actually in complete agreement with lots of the submissions and I'm just trying to narrow down the points of departure. I think that's basically it.

**MR ARCHER:** I think you're right to this extent at any rate, that there is a body that has in place all of those accreditation procedures and it is the gazetted Commonwealth organisation that does the overseas one for immigration purposes. So there's a huge amount of data and corporate knowledge which, as I said earlier, would be a pity to dismantle, and I don't think it probably would be to begin with. But my concern would be - if we're looking at accountants and engineers who I don't think have ever been backed by legislation or a statutory system, even though I understand they've been pushing for it for some time.

**PROF SLOAN:** I don't think that's true. I don't think they want it at all. There are certain activities they do which are licensed, right, so you have to be a licensed tax agent, for example, and a licensed solvency practitioner and the like.

**MR ARCHER:** I think it would start to become confusing if we had, for example, so-and-so architect, so-and-so architect RAlA, so-and-so architect AACA, so-and-so architect BDA. I think what would worry me is - - -

**PROF SLOAN:** It might give more information.

**MR ARCHER:** Well, it might, but I would think there's something to be said for the fact that at the moment, architect means architect. There's no misinterpretation, this is what it means. Whereas engineer doesn't mean engineer.

**PROF SLOAN:** Could I speak to that point? It doesn't mean all that much because we've got our 1956 registrant - - -

**MR ARCHER:** No, I'm not saying how much it means.

**PROF SLOAN:** - - - working as a taxi driver architect, and then some absolute whiz kid registered 1996 architect. There is no information in there.

**MR ARCHER:** Then what about doctors that don't become practising doctors, they can still call themselves doctors?

**PROF SLOAN:** That's not a good example at all.

**MR ARCHER:** Isn't it?

**PROF SLOAN:** No.

**MR ARCHER:** I withdraw it then.

**PROF SLOAN:** Because "doctor" is just a courtesy title. There's nothing legally reserved about that. To call themselves a registered medical practitioner in the state of Victoria, that's - - -

**MR ARCHER:** I see, I take your point.

**PROF SLOAN:** That's a bad example - doctor. Chiropractors call themselves doctors.

**DR BYRON:** Chiropractors, dentists, vets. It won't be long until nurses and pharmacists - - -

**MR ARCHER:** Commissioners?

**DR BYRON:** No, I've actually got a doctorate. But coming back to the point about licensing and the comment about certain activities, one of the things that we were trying to do amongst the enormous array of activities that architects can and do engage in, and in some activities they may or may not brush up against other functions. Some of those activities have very substantial health and safety implications, some are more creative or aesthetic. We're trying to say, where are the actual functions where there is a high risk of high loss or high damage, because if you look at all literature across all the trades and professions and everything else, the things that are actually controlled by rigid licensing are the ones, the activities, that have a great risk attached to them, a great risk of loss. So the reason that your electrician has to be licensed is because if somebody who is an incompetent does it, the house could burn down or things explode or something.

So we're trying to unbundle this great array of - you know, tremendous things that architects can do and sometimes do. So, okay, which functions amongst those are the ones where you would actually try and control the activity to make sure that nobody who is an incompetent did that, the ones where there's damage. Brain surgeons don't have to be licensed to take your pulse; they have to be licensed if they want to cut around in here. But to take your temperature, take your pulse, that's non-threatening, anybody can do it sort of thing.

**MR ARCHER:** My response to that is this: sure, the occupational health and safety, welfare and safety aspects of construction, if you like, are pretty well covered by a range of statutes. I notice that there's actually 160 pieces of legislation that require certifications from engineers as well. The building code therefore represents that attempt to ensure the safety and welfare of the buildings. It's a minimum standard admittedly but it is there. The difficulty might be - - -

**PROF SLOAN:** But it is a direct response.

**MR ARCHER:** Yes.

**DR BYRON:** It controls the hazard.

**MR ARCHER:** Yes, it controls that hazard. Now, I'll get back to my point about, say, the intellectual rigour of the design and problem-solving process and today it's much broader than just buildings. It is about planning and community. When you get to planning legislation - for example, I'm trying to dream up the words. It might say that a proposal here must reflect the character and culture of the area and reflect its history etcetera. That to me starts to introduce the intellectual rigour that's been the subject of five years' training to interpret. It's more than safety, it's more than buildings falling down, you can't build once to see if it works or not, you've only got one chance. You do it and it's going to have a huge impact on the community. It's that aspect of the public benefit that you can't define - and I can't define it - but it is in that area of public interest and benefit that I think this rigour applies, not simply to whether a building falls down or not.

**DR BYRON:** It's much more difficult to objectively test for that, isn't it?

**MR ARCHER:** It is, yes.

**DR BYRON:** That's one of the attributes that's common to all the things that we consider professions, is the credence or the trust that the professional has the skills and the value judgments to get it right the first time.

**MR ARCHER:** That's right.

**DR BYRON:** I'm sure it's very difficult to design legislation that's objective, so that anybody who looks at that streetscape would agree that that new building is totally in sympathy and harmony with the rest of it.

**MR ARCHER:** It's impossible.

**DR BYRON:** You might think it's great and I might think it's not.

**MR ARCHER:** Yes, that's right.

**DR BYRON:** Or, you know, two architects who disagree on that.

**MR ARCHER:** Whether it's better or worse than it might have been, I suppose.

**PROF SLOAN:** You should come to Adelaide - this is one of my bugbears. In North Adelaide where I live there is a Robin Boyd house, absolutely monstrous. It

sits there like a beach shack in between The Manse, a beautiful Victorian house, the beach shack, and then the student college which is also beautiful. Of course it's heritage listed, the beach shack. Now, I mean, whoever thought that was in keeping with - - -

**MR ARCHER:** Commissioner, we have a hotel in Hobart which is the result of the client's brief to leave a monument. So, I mean, Robin Boyd could have walked away from that brief, if that was the brief, but it's not just - - -

**PROF SLOAN:** But you come along with me to Adelaide and see where it fits into the precious ambience of this precious area.

**MR ARCHER:** I'd love to. I'll come back with Andrew Davies and we'll do it tomorrow morning.

**PROF SLOAN:** I bet he agrees with me on this one.

**MR ARCHER:** I might as well. I'm just saying - I mean, what I've described is part of the success, the other is what the client tells you it wants.

**PROF SLOAN:** Yes. You're never going to get that in legislation though. That's the point, isn't it?

**MR ARCHER:** Yes. But having a system that says, "If you want to do this, this is what you've got to do and then be registered," doesn't mean the legislation itself is achieving it, I agree.

**PROF SLOAN:** But it's sort of a broader community task of essentially convincing the community at large of the value of architecture and the role it plays more generally.

**MR ARCHER:** Yes.

**PROF SLOAN:** But that brings us back to the architects acts which seem to play a very minimal part in that process. Now, did you want to talk about Tasmania?

**MR ARCHER:** Look, I just want to briefly turn those pages over there - - -

**PROF SLOAN:** We're very interested in Tasmania.

**MR ARCHER:** - - - and say thank you. If I might don the hat of the chair of the Board of Architects of Tasmania. My name is David Archer and I'm chair of the Board of Architects of Tasmania. The board is a small one but we like to think progressive. I think it was the first to introduce a mentorship program for candidates. That's where graduates are working for themselves. They're self-employed in fact. So it's difficult for them to fulfil the requirement of one year's experience under an architect and there's a system which has now been agreed to nationally, I think, just

last week, where if certain processes are put in place you can get an architect to attest to your work and that would be acceptable. All I'd like to say is that the Board of Architects of Tasmania endorses the submissions made by AACA and commends them to you.

**PROF SLOAN:** Right.

**DR BYRON:** Just on the mentorship scheme, is there some restriction on the sort of work that the young graduates can do during that period?

**MR ARCHER:** In a way I think there is because there is this requirement to complete a logbook which lists the sorts of experiences that you can be exposed to but I think it lists four mandatory ones, so there is a restriction. But someone in self-employment would get the lot.

**PROF SLOAN:** You could get a group training arrangement going under AACA. You could become a registered group training company.

**MR ARCHER:** Yes.

**PROF SLOAN:** I've got some good ideas for you.

**MR ARCHER:** Have you?

**PROF SLOAN:** Yes. Then you could move these young architects around.

**MR ARCHER:** When are you going back to Adelaide?

**PROF SLOAN:** There are lots of entrepreneurial opportunities.

**DR BYRON:** Just on that point, I'm just trying to understand, it's difficult for young graduates to get placement in larger firms straight after graduation in order to get the experience that they need to get registered. That's the problem.

**MR ARCHER:** That's a factor. Some of them do a part-time course because they've drifted into an area of architectural drafting with a firm. They've decided they want to work for themselves so they provide this architectural drafting service to the public and they say, "I think I'd like to be an architect," so they study and they become - they get their bachelor of architecture. They then have the difficulty of actually then going back and working for another architect for a year, which is what the procedures say. So we have a system where, "Okay, we'll acknowledge that you're actually working for yourself and you're doing architecture - - -"

**DR BYRON:** But they're called a building designer, basically.

**MR ARCHER:** Yes, yes, that's right.

**DR BYRON:** So in order to get the experience - but before they actually become registered - - -

**MR ARCHER:** Yes.

**DR BYRON:** It's a different way of doing an internship, that self-employment?

**MR ARCHER:** That's right. It just acknowledges that they're doing the work and if we get someone to attest to it, that's fine.

**DR BYRON:** That's another example, as you say, of innovation.

**MR ARCHER:** Yes. I mean, the acts are there but, you know, no-one takes much notice of them.

**DR BYRON:** I think that's a very good example again, what we're talking with the AACA - - -

**PROF SLOAN:** I hope they got that on transcript.

**MR ARCHER:** I hope they got the inflection in my voice as well.

**PROF SLOAN:** I doubt it.

**MR ARCHER:** My tongue was in my cheek.

**PROF SLOAN:** I mean, it goes back to the point we've already made that a lot of these innovations and reforming of the system has occurred notwithstanding the fact that the acts haven't changed. It's been because sensible people have got together, identified the problems and come to some solutions.

**DR BYRON:** Found ways of doing it better, yes. In fact I think it would be very regrettable if some boards were continuing to do things as they were in the 1950s because, "The act hasn't changed and therefore we can't." I think the innovations are occurring at different paces around the country, but it clearly is possible to make improvements, even in terms of the transparency of the disciplinary process. I know Victoria and Queensland realise that there's been a denial of natural justice, so separating the prosecutor, judge and jury functions. The point is that the legislation didn't have to be reformed to enable those sorts of intelligent changes of process to take place.

**MR ARCHER:** Yes.

**PROF SLOAN:** Chris, was there anything you wanted to add?



**MS HARDING:** No, I think David has covered everything quite sufficiently.

**PROF SLOAN:** Thanks very much for your contribution. I don't want you to go away unacknowledged, Chris, because I think you've been behind a lot of the work in terms of the submissions put to us - - -

**MR ARCHER:** Very much so.

**PROF SLOAN:** - - - and it's very much appreciated. They have been lengthy and comprehensive contributions, so thanks very much.

**MS HARDING:** Thank you.

**MR ARCHER:** Thank you.

**PROF SLOAN:** You can go and have a cup of tea now. I'll call an end to the hearings on Wednesday, 21 June in Melbourne, and we'll recommence tomorrow morning back here at 9.30.

AT 3.58 PM THE INQUIRY WAS ADJOURNED UNTIL  
THURSDAY, 22 JUNE 2000

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