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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 PERTH ON TUESDAY, 6 JUNE 2000, AT 9.32 AM**

**PROF SLOAN:** This is the first day of the public hearings of the Productivity Commission review of legislation regulating the architectural profession. I thought it might be useful for this group to go through some of the background about the review. There seems to be some misunderstanding about the role of the Productivity Commission, and the role of the Productivity Commission in this review. But before I do that, let me introduce myself. I am Prof Judith Sloan and I am one of the commissioners of the Productivity Commission; in fact, I'm a half-time productivity commissioner - whatever that means.

On my left is Dr Neil Byron. He is a full-time commissioner of the Productivity Commission, and we are both economists. We're economists of different varieties. Wouldn't you agree with that Neil? We are both economists by training. Let me also point out that "economist" is not a statutorily registered occupation. Over here we have Lisa Gropp who is the associate commissioner. She is the staff member in the Productivity Commission who is in charge of the review, and an extremely able one at that. At the back of the room we have Matthew Stubbs who has been helping us and has come over from Melbourne for the purpose of this hearing.

**MR .....**: Excuse me. Have you got any architects or professional people on this panel?

**PROF SLOAN:** No. Can I just say that these public hearings really don't allow for comments or any kind of speaking from the audience. It may be that we require a fairly formal hearing. If you want to say something, there is scope within these public hearings to say it. It's all being taped and will be available on transcript. I don't know whether you're down to say something, but that's the appropriate time. Otherwise, when the records are made, it's a bit unclear.

**MR .....**: I just want to establish if professional people in fact were partly conducting this inquiry.

**PROF SLOAN:** Can I just reiterate what I said. It's absolutely imperative that we don't have comments from the audience, because then for the legal purposes of transcript we don't know who has spoken. Can you just confine your remarks to actually when they are on record. Let me perhaps pick up some of those points. There seems to have been some misunderstanding that the Productivity Commission itself took it upon itself to undertake this review. That is not correct. The origins of this review essentially were in the decisions of the state governments to refer this review through the federal Treasury, who in turn referred it to us, to undertake this review which is required under the terms of the National Competition Policy.

Most of you will know that most of the state governments and, indeed, territory governments had embarked on a process of reviewing their architects acts, and that is required under the National Competition Policy. If you still have some uncertainty as to the process, it probably is worthwhile investing some time in coming to terms with

the National Competition Policy which requires all governments - state, territory and

the Commonwealth - to review all pieces of legislation which have potentially anticompetitive elements.

This was not something that came out of the blue or was done on our motion but, indeed, was referred to us. I point you particularly to what is called the reverse onus of proof in the National Competition Policy, which is that for those who want to keep pieces of legislation which have potentially anticompetitive elements, they must be able to demonstrate that the benefits exceed the costs and that there are not alternative means of achieving the same outcomes which are more efficient. We were, in a sense, party to a process but not the initiator of that process.

Coming to the point about how the inquiry is conducted, let me also make the point that the Productivity Commission has undertaken a number of inquiries within this heading of National Competition Policy; in fact, Dr Neil Byron headed an inquiry which was looking at a particular part of the Trade Practices Act, Part X, which relates to shipping regulations. He's also currently involved in another National Competition Policy review which is looking at the Prices Surveillance Act and, indeed, there are other important inquiries that the commission either is currently undertaking, has undertaken, or is about to undertake which is under the heading of National Competition Policy.

As far as professional input is concerned, this inquiry has followed the same route as other inquiries, which has been to undertake a series of visits, a series of consultations, to call for a first round of submissions - we had a very large number of submissions in this inquiry; to produce a draft report which I suspect most of you have a copy of at this stage; and, having produced the draft report, to invite a further round of submissions, and again quite a large number have come in. Importantly, as part of the process of interaction and securing feedback on the draft report and further information is this round of public hearings which commences here in Perth today. When we have our individual participants come up to speak to us and to answer questions there might be further questions about the process, but I think that was useful to go through.

We have a very solid day of work ahead of us and so it probably is worthwhile starting as soon as possible. The tone of these hearings is, by and large, relatively informal, subject to my proviso that we don't have interjections from the audience, and we will see how we go. The first organisation and representative of that organisation to appear is Harry Schubert from the RAlA Western Australian chapter. Is Harry here? For the purposes of transcript, could you give your name and your organisation.

**MR SCHUBERT:** If you will excuse my slight lateness. I think I must have been on Rottnest time from the long weekend. My name is Harry Schubert. I'm the current state president of the Royal Australian Institute of Architects. But having said that, what I must say is that the RAlA - the Royal Australian Institute of Architects - will be making a national submission during the course of these hearings. A date which has been indicated to me is 8 September, but I suspect it will be a little

later

than that. It will be submitted before the end of the hearings and there will be speakers speaking to that national submission.

Consequently, my own presence here today is to perhaps still address some of the points that have come out in the draft report of the commission, and also put a WA perspective on it. There are some perhaps local features, local laws, that may not apply nationally.

**PROF SLOAN:** If you would like to spend maybe 10 minutes to make those points, that would be very useful.

**MR SCHUBERT:** I believe I've been allocated 45 minutes.

**PROF SLOAN:** Yes, but do you want to spend all 45 minutes? I think it's important that we spend some time - - -

**MR SCHUBERT:** No. My presentation may not take 45 minutes, but there are a number of things that I want to run through in responding to the draft report.

**PROF SLOAN:** Fine. I'm just saying I think what works best is if you give your overview of your presentation perhaps.

**MR SCHUBERT:** As an introduction.

**PROF SLOAN:** Yes.

**MR SCHUBERT:** I assume the commission has received the - - -

**PROF SLOAN:** Yes.

**MR SCHUBERT:** What I will cover then - these are general headings. Just looking at generally the validation certification of professions and trades, some local reference to that; cost benefits to the community of such procedures - that's the validation certification processes in place. I will elaborate on design and, as I've said in the summary, design is not just about aesthetics or appearance; it's far more than that. I will then look at the health and safety risks associated with the design process, the role of codes that have been mentioned quite frequently in the draft report and the role these play - standards, codes, statutes and so on - who interprets these, who compels compliance; briefly, financial risks to the consumer and the community, although this will come through in all the various points that I present.

I will spend a bit of time on contractual risks. Design and construct has been mentioned as a panacea to some of the problems of not deregulation but as a replacement perhaps of architects and other professionals. Then I will specifically look at the Home Building Contracts Act locally, which is WA legislation, and then just generally sum up the likely consequences of deregulation and a case for actually regulating the practice of architecture, and that will be a thread through this. I must

say that most of what I will be presenting will be pretty well in line with what the national submission will be, but I'm not pre-empting that national submission.

**PROF SLOAN:** That's fine. Can I make the point, which I think is true for all of these hearings, that it's important we don't really debate the value of architecture. We're not here to discuss the value of architecture or, indeed, the value of architects. We're here with a much more narrow task, which is to assess the role of the Architects Act and the system of statutory registration. I think it is important to keep to that focus.

**MR SCHUBERT:** The first point then is registrations, licences. These, I believe, generally are for consumer protection and, as I would see it, its laws to protect the weak against the strong. Legislation is morality and action, I think, as one politician once put to me. What we see pervading through this draft report is a form of Darwinian determinism, as I would put it, which actually says, "Let the marketplace sort it out and whoever wins survives," and that, I think, is stated in the general overview at page XXII. I think that's summarised there. I'll just mention the pages without taking the time to flick to them.

The question arises of why we need something like the ACCC which is, after all, there to balance competition, modify competition. In WA licences, registrations are normally one-off, based on qualifications and experience, and that applies to not only architects but builders - we work closely with - plumbers, electricians, and again I'm just quoting state acts; real estate agents, solicitors and finance brokers, I might add. These boards are all predominantly in the industry that architects are involved in. One of the things mentioned in the draft report is that the boards - and this includes the Architects Board - is made up of architects; just as the Builders Registration Board is made up of builders and so on.

Again, that puts a negative slant on that. But, after all, in my view it's a principle of peer assessment. Who is better to assess, say, the faults of an architect than a group of other architects? If you look at the jury system, or whatever else, where you simply have citizens, laypersons - and that is one of the recommendations in the draft report - then you have a learning curve to go through. If these recommendations do go through - for example, the board or boards survive and they're made up predominantly of lay people - I would say that there would be a plethora of expert witness services required, simply for the lay people to become familiar with whatever the issues are. That's what happens now, if medical or, indeed, architectural cases go to civil courts to explain to magistrates and judges what the issues are really about.

Another point that's mentioned is the fact that there's simply a one-off registration and that after that nothing happens. There's no compulsory PD or anything else. Again that's the nature of professional registration. I don't think I know of any other professional registration. I don't think I know of any other profession that constantly needs to reapply, requalify, reregister every three years. Even a driver's licence doesn't apply on that. You simply lose whatever you have a

licence to do once you're proved negligent. That recommendation I mentioned was on page XXX.

**PROF SLOAN:** Sorry, can I just interrupt you there. So you think that the current registration system does continue to convey a lot of information to consumers, notwithstanding the fact that it's a one-off process. So someone might have qualified B Architecture in 1956 and be registered in 1958. Do you think that provides ongoing valuable information?

**MR SCHUBERT:** It's not so much information as validation. It's like any doctor or anyone else that qualified 30 years ago.

**PROF SLOAN:** But no revalidation.

**MR SCHUBERT:** No, presently there's no system of revalidation. There is voluntary recommended professional development. The point of the Architects Act is that it's about identification in the marketplace, just as other acts identify builders, medical practitioners, dentists, doctors. It's for consumer protection, it's not for protection of the architect; the public know that they're dealing with an architect, not someone that's almost an architect. Page 37 - and this is numerals 37 - there's a quote by Ovie Taylor, who has made a submission, that some of the world's best designers were not architects. He mentions, for example, Frank Lloyd-Wright and Walter Burley Griffin. As an aside, I recently found out there's no hyphen in Burley Griffin. Anyway, that's like saying that Sir Christopher Wren wasn't an architect because he wasn't registered in England at the time. 300 years ago there was no registration system.

Mr Ovie Taylor goes on to say, "A lot of university training and some experience is not necessarily superior to less training and a lot of experience." This is probably the nub of those who want to be architects. This is the nub of their argument, and I would almost agree with them. Those architects that he mentioned earlier had probably more experience than training but the point is they were all validated, usually by their employers. They had a contract with their employers. There were various names for that - indentured, articed, apprenticed - and that was the certification. You were validated by your employer rather than by a general more arm's length body such as the board that we have today. If I was starting again I know who I would prefer to be validated.

**PROF SLOAN:** What do you think of the situation, though, where we have quite sizeable numbers of people who are architecture graduates, who work as architects, yet it is illegal for them to call themselves architects? What is the morality of that situation and what is the efficiency of that situation?

**MR SCHUBERT:** I think the morality is simply consumer protection. It's like paramedics; there are paralegal people. I think a couple of years ago in Melbourne a girl simply set herself up as a solicitor and survived, surprisingly, for a couple of



years before she was caught out. I think that's simply it; it's knowing that you are dealing

with someone that has met a standard peer assessment.

**PROF SLOAN:** But it's not illegal for them to do what they're doing; it's just illegal for them to call themselves architects.

**MR SCHUBERT:** Well - - -

**PROF SLOAN:** But they have a bachelor of architecture and they work as architects. Those two things are undeniable, yet it is illegal to call themselves architects. Is that a consumer protection?

**MR SCHUBERT:** When you say they work as architects, they may be working under a registered architect.

**PROF SLOAN:** Yes, or they may not. They may be working as architects.

**MR SCHUBERT:** I suppose a parallel I can draw is that churches, for example, offer faith and healing services, and so do doctors, but the two don't try and masquerade as each other. In the public eye one knows what sort of healing or service you'll get from one as against the other.

**PROF SLOAN:** But is that true? So my 1958-registered architect is offering the same service as someone who's registered in 1995?

**MR SCHUBERT:** Again I think the issue is that if there's a validation process those people can quite easily present themselves and validate themselves.

**PROF SLOAN:** A once-off validation process?

**MR SCHUBERT:** Yes.

**PROF SLOAN:** I'm just getting at the point of how much information does this registration procedure - once-off registration procedure - really give to the consumer?

**MR SCHUBERT:** I think like any other - - -

**PROF SLOAN:** A lot or a little?

**MR SCHUBERT:** Most of the boards, and that would include the Architects Board, are conservative bodies - and I think rightly so - but they don't promote themselves. If that is a fault - and I'm not on the board but perhaps as an observer outside the board - that may be a valid criticism, yes.

**PROF SLOAN:** So one of their weaknesses is that because consumers are not aware of the existence of the boards they therefore don't perform a consumer protection function. How can they perform a consumer protection function if

consumers aren't aware of them?

**MR SCHUBERT:** I think they do, once faults occur - and I think many of the complaints the boards have turn out to be by people who aren't registered with them, so in fact that's really turning the argument around and it is an argument for registration, to bring those almost architects into - - -

**PROF SLOAN:** Have you got evidence of that?

**MR SCHUBERT:** The board would have to do its own submission about that; I don't know.

**PROF SLOAN:** Okay.

**MR SCHUBERT:** We were just saying about validation a hundred years ago - or I would suggest probably before the Second World War - and validation now. We see the vestiges of that remaining in terms like "articleship" for lawyers and "internship" for medical practitioners. The benefit to the community then of this validation identification process is that they know they are dealing with people who will get it right the first time, whatever it is - in the case of architects is the service of architecture - who are not gaining experience; in Mr Ovie Taylor's words, "Gaining experience on unsuspecting consumers, when a day will arrive when they believe that they'll be qualified." So what we seem to be heading for is a process of self-education, self-validation and self-certification, if we take that argument to its extreme.

The cost of failures, consumer complaints and political pressure led to these boards in the first place. Now we seem to be in the process of dismantling that protection that was in place to protect the weak against the strong. Now on to my next major point. This is in the overview, 24 numerals. The report uses terms associated with design like "style, fashion, brand" and elsewhere even talks about not wishing to license "certain artists". That's on page 64 of the report and I would agree with that. I don't think artists need a licence. They presume they have it in the first place. But design is much more than aesthetics.

To just paraphrase Prof Rob Cowdroy's summary - who looked at competency standards in architecture and related professions recently - it's an integration of complex variables. These variables include but are not limited to spatial, circulatory - which is escape egress - light, ventilation, structural, mechanical, electrical, visual and then moving on into drainage, environmental, historical context, urban design. So all these factors, to a smaller or larger degree, come into play when an architect designs a building.

Now, most people think they can design and I have clients like that as well. They're simply looking for someone to draw something up, as it were. But I would put that in the category of the grandmother's cure for whatever ailment they may have. Despite that, I believe there's still a role and a need for architects, as there is

for

doctors.

**PROF SLOAN:** But we're not debating that. We're really debating what is the role of the system of statutory registration. This goes back to my point. We're not really here to debate the role of architecture and the role of architects. We're focused more specifically on the point about the registration of architects.

**MR SCHUBERT:** But I thought these hearings today were to respond to points made in this draft report.

**PROF SLOAN:** Yes, sure.

**MR SCHUBERT:** Well, that's what I'm doing.

**PROF SLOAN:** All right, but I think that it's important to focus on that.

**MR SCHUBERT:** Well, you're trying to get me to focus on a particular thing and, as I said at the outset, I wanted to respond to points generally made in this report.

**PROF SLOAN:** Okay, but I mean - I suppose - - -

**MR SCHUBERT:** And that's why I need 45 minutes, not 10 minutes.

**PROF SLOAN:** That's fine, but we need to focus on the link between the registration of architects and these benefits as opposed to just the role of architects.

**MR SCHUBERT:** These benefits really then flow on from those validated to coordinate, to control the design process, and that's what I've outlined. That was the first plan in my argument - the validation process.

**PROF SLOAN:** Okay.

**MR SCHUBERT:** The next point that's mentioned in the report then looks at health and safety risks, and the process of design does carry health and safety risks. Structure is about the only one that's mentioned specifically and I think there's a request for additional information on the training that architects get in the design of the structures of buildings. But as I pointed out earlier, the registered architect is responsible for a whole range of complex variables, not only structure, and each of them at some time or other may be life-threatening: the sprinkler systems, the escapes, the ventilation, perhaps even - dare I raise it - the legionnaire issue and so on. So there's a whole number of factors that could be at stake in the integration of those various elements that go to make a building.

The architect is not a specialist but only a coordinator, a prime consultant, but if anything goes wrong it's the architect that's held responsible for those. The parallel situation is with builders, who again are not specialists in any particular trade, but if there's a plumbing failure or a lighting failure - airconditioning, whatever - the

builder

can be held responsible for that failure. In WA, in addition, we have the Occupational Health, Safety and Welfare Act and that specifically names designers of buildings, so it uses a more generic term - "designers of buildings and workplaces" as being responsible for the health, safety and welfare of occupants in those buildings.

**PROF SLOAN:** But doesn't that then suggest that the architects acts are a very long way removed from addressing occupational health and safety issues associated with buildings? All of those things you've said, including the fact that architects are not centrally concerned with these things, leads one to the conclusion that it's impossible to justify the architects acts on occupational health and safety reasons.

**MR SCHUBERT:** No, I think you've misheard. I didn't say they weren't centrally concerned. They are, in that they coordinate all these and they're responsible for all these. What they are not are specialists in each of these sub-branches.

**PROF SLOAN:** Right. So how does the Architects Act then contribute to the health and safety outcomes?

**MR SCHUBERT:** Once you've got a person that's responsible for that process, the consumer protection is that they can be sued for failure in any of those, and indeed they are.

**PROF SLOAN:** But you don't have to be registered to be sued.

**MR SCHUBERT:** Well, no, but it can mitigate your qualifications in carrying out whatever you - - -

**PROF SLOAN:** Have you got evidence of that?

**MR SCHUBERT:** Not with me today, but part of my work is providing expert witness services for solicitors in Perth and that often comes up as an issue.

**PROF SLOAN:** Right. It just seems to me this was an extremely indirect way of addressing what is actually directly addressed by other pieces of legislation.

**MR SCHUBERT:** I'll be coming to legislation generally in a minute. One of the factors that is mentioned interestingly on page 65 of the report is that - no, before I move on to that - at page 19 of the overview XIX, there is a statement made that whatever services architects provide it is essentially building design. Somehow building design is central. I'm not sure where that statement came from, whether it was submissions or a conclusion that the commission came to, but I would say a parallel there would be, as I used to think as a high school student, that lawyers just spent their time in court talking, addressing legal cases. Of course, we all know now most solicitors don't do that. There's a very small number that appear in court, the rest do a whole range of things.

It is the same with architects. Yes, design is one of the services that is offered,

but there is a whole range of other services - building reviews, condition assessments, reports on heritage, building faults. There is a whole range of skills that may be linked in with design where you may be called upon for your design skills, but you are not actually designing, you are providing a service that draws on that knowledge. A good example is on page 65 of the report where there is a mention that people can get in experts to check on the safety of existing buildings - hire experts.

In fact this is a growth industry for architects, mainly started by an organisation called Archicentre. That is mentioned in the draft report where the term "architect's report" in Western Australia, and I believe in other states, is gaining a certain validity or currency that architect-designed houses or buildings have up until now. What is happening in the marketplace with more astute consumers is that they are making this as part of the condition of their purchase. If you repeal all the acts again, anyone will be able to say they will be doing a architect's inspection without any qualifications, experience or whatever.

**PROF SLOAN:** But economists do all sorts of things and the market dictates that it changes what they do, but economists don't have any statutory registration. You are saying the validity of these - which is not a monopoly of architects at all; a lot of people would use an engineer for that kind of service.

**MR SCHUBERT:** No, I admit there are other people who advertise and - - -

**PROF SLOAN:** So you are seeking some market advantage from the government registration.

**MR SCHUBERT:** I think there is. People specify they want an architect's report. That is what Archicentre offers. If someone else holds themselves out to be an architect and does that report, they haven't got what they expected.

**PROF SLOAN:** But they will be asked further questions. They will probably ask further questions, even in the case of a registered architect.

**MR SCHUBERT:** Maybe. I don't know. These have a fairly quick turnaround and sometimes you don't even meet the purchaser. It's simply a phone call.

**PROF SLOAN:** Of course the engineering reports have value in the market, yet the engineers don't have statutory registration. Would you say they do not have any value because the engineers are not statutorily registered? They just have a form of self-regulation.

**MR SCHUBERT:** No, I wouldn't. Again, they certainly have a place in the market and their opinions are registered - their opinions are valued and sought after.

**PROF SLOAN:** I'm just going back to the link. What is the link with the Architects Act and these things? In a world of self-regulation a lot of these things, if not all of these things, would continue to exist and maybe even flourish.



**MR SCHUBERT:** Yes, I'll be coming to self-regulation a little later on. I will address that issue. Codes have been mentioned as a panacea for - almost as a substitute for professional registration in the report; for example, in 2029 of the review and elsewhere. That's stated, I think, at page 23, I've noted here. There is a presumption that others will do the checks, presumably local authorities. Again, if I can draw a more folksy analogy, that would be like saying, "Well, we don't need drivers licences any more because we've got road rules and the police will get you anyway." But imagine the havoc of letting people loose on the road without that validation, registration, licensing process.

Local authorities in WA anyway are moving out of that checking area. In fact, all they do is issue planning approvals, building licences - and even building licences they may look like shedding or privatising. That simply does put more and more reliance in the marketplace on professionals, on people who are qualified to prepare documents and to oversee construction.

**PROF SLOAN:** So you don't think professionals should adhere to a code of conduct?

**MR SCHUBERT:** I haven't said that at all. I'm not sure how you deduced that.

**PROF SLOAN:** You were saying codes of conduct weren't important.

**MR SCHUBERT:** No - I see, codes. Yes, when I talk about codes it's building codes.

**PROF SLOAN:** But isn't it a legal requirement to comply with codes, building codes for example?

**MR SCHUBERT:** Yes, I think that point must be corrected. My reference to codes was statutory codes going in construction, not the conduct of architects. The conduct of architects certainly is important. It's a statutory requirement, I agree, but it's like saying, "Who will compel compliance if you don't have professionals?" The local authorities are moving out of that area. As I see it, there is no other qualified professional who has a complete overview and responsibility of the building process. Engineers have their part, their speciality, all the various licence holders I mentioned - the electricians and so on have theirs. But there is no-one who takes overall responsibility. There is only the architect. That is really the value of the point of validation and registration.

Architects are not only expected to know these codes and design by them, but if they haven't complied they can be sued for negligence. The local authority won't be sued, even though it issued the licence; it will be the architect who will be sued.

**PROF SLOAN:** But a non-registered building provider would equally be sued. It's not a requirement - registration is not a requirement to be sued for violating these

codes. Would you agree with that?

**MR SCHUBERT:** Yes, I would, just as a builder could be sued, depending on where the fault is.

**PROF SLOAN:** Yes. So if you had a non-registered building designer who designed something that didn't comply with these codes they could be sued, and the fact that they don't have statutory registration is not relevant.

**MR SCHUBERT:** It would depend on the extent of the service but, yes, if they were holding themselves out to be completely responsible, then presumably they could be.

**PROF SLOAN:** Because it's not a requirement of registration that people hold professional indemnity insurance.

**MR SCHUBERT:** No.

**PROF SLOAN:** Do you think that should be a requirement of registration?

**MR SCHUBERT:** It's one of the recommendations in our national submission, yes, and personally I believe so as well.

**PROF SLOAN:** How do you think consumers go when they complain to the Architects Board?

**MR SCHUBERT:** When you say "go" - what, as a success rate?

**PROF SLOAN:** Yes, how do you think - the boards are not in a position to order restitution, are they?

**MR SCHUBERT:** No.

**PROF SLOAN:** And they are clearly very loath to use the ultimate sanction of deregistration.

**MR SCHUBERT:** I don't think that's true. I've known of cases of architects that have been deregistered in this state.

**PROF SLOAN:** Really? How many?

**MR SCHUBERT:** I don't know. I think I would have to - again, that would be a board information - - -

**PROF SLOAN:** Very small numbers.

**MR SCHUBERT:** But anecdotally.

**PROF SLOAN:** Very small numbers, yes.

**MR SCHUBERT:** Maybe, but that again I would suggest perhaps shows the efficacy of the system, of the registration system; there are very few breaches. I don't know why we expect a plethora of deregistrations simply because there's an act there.

**PROF SLOAN:** No. But you would expect an effective mechanism for handling consumer complaints.

**MR SCHUBERT:** Yes, and I believe that is there.

**PROF SLOAN:** Right. We might bring that up with the boards, but it goes back to your point about consumer protection. I mean, is there not a danger - going back to this issue of being sued - that registration may imply some kind of government guarantee which simply doesn't exist? A consumer may seek to sue a registered architect thinking, for example, that surely a registered architect would be required to have insurance as part of that and to discover that that isn't the case. Is that not a potential cost of registration?

**MR SCHUBERT:** I don't think any profession that is registered consider they have government protection.

**PROF SLOAN:** Why would you want the government involved therefore?

**MR SCHUBERT:** Okay, I think the central point there is, as I said earlier, the laws are there to protect the weak from the strong. The most compelling, strongest compunction for anyone to do something is a law, a statutory law.

**PROF SLOAN:** Right. But you told me - - -

**MR SCHUBERT:** And I'll come to this - - -

**PROF SLOAN:** - - - that consumers don't know about the Architects Board, so can it be an effective form of consumer protection if they don't even know about it?

**MR SCHUBERT:** If they've dealt with an architect and have a complaint they soon find out.

**PROF SLOAN:** So it's an ex-post solution.

**MR SCHUBERT:** There are probably boards I don't know about because I've had no dealings with them. The Finance Brokers Board I didn't know about until recently because it's in the press. Once consumers engage with whatever sections of the market professionals and some fault arises, I'm sure they find out quite quickly.

**PROF SLOAN:** Right. But if a consumer does have a serious grievance they really are then involved in at least two steps, aren't they, because the boards can't order restitution, so they're likely to have to use the common law to seek damages from the architect in any case? It's not a one-stop shop for consumer protection.

**MR SCHUBERT:** No, not necessarily, but again it does two things: at least it warns the public of a negligent professional and if it's serious enough that person can be excluded then from the marketplace. Secondly, it then gives a basis that if a consumer seeks restitution, as you put it, to take the matter further, then they have a basis for that.

**PROF SLOAN:** All right. We haven't got much more time, so if we could keep going, Harry.

**MR SCHUBERT:** Contractual risks and designer construct - this is page 42 of the review - was put as an alternative way of dealing with the consumer professional asymmetry and that there are clauses there to protect consumers. Someone defined designer-constructors as a contract where you know exactly what you're going to pay but not exactly what you'll get. The biggest use of designer-construct contracts is in the project home market. I think your report itself states that there were some hundred thousand starts in 98. That's page 40.

If we look at where the biggest area of consumer complaints is, in this state anyway, it's by far in this very area - the project home market where the design and construct contract rules. By public demand, in this state anyway in 1991, I think it was, there was a Home Building Contracts Act enacted due to political pressure, simply to rebalance those asymmetries in the marketplace. The complaints of consumers were huge variations - large deposits up-front, no warranties. An act of parliament looked at rebalancing that. That is the sort of intervention that occurs when you don't get professionals involved in that asymmetrical contractual relationship.

Even today if you go up to the builders' organisations and go through a designer-construct contract you won't find a penalty clause there because the contracts are written by builders. They won't penalise themselves if they can avoid it.

As far as warranties go - warranties are also mentioned in the report - the minimum warranty required under that is 12 months. The only real protection consumers still have against builders is through the Builders Registration Act, which requires a six-year liability for the builder; more or less in line with statute of limitations. So again, the consumer has fallen back on statute in two cases: that, and the Builders Registration Law, rather than a form of contract and the words of it.

**PROF SLOAN:** Maybe we could just get onto that. I would particularly like to hear your view on how self-regulation might work.

**MR SCHUBERT:** I haven't addressed that view, because that will be put by the national body.

**PROF SLOAN:** All right.

**MR SCHUBERT:** I did have something more to say on this though. The Builders Registration Board's annual report in 1998, the same year as your figures, lists the number of disputes that they dealt with. Bear in mind, this is seven or eight years after the Home Contracts Act came in. In 1996 there were 290 disputes heard; in 97 240 disputes; in 98, 260 disputes. So an average of 250 disputes per annum, running at five a week, let's say, one a day.

**PROF SLOAN:** So what you're implying is that if it was only architects designing and building these houses there would be no disputes? Registered architects.

**MR SCHUBERT:** By their training, architects are also, you could say, dispute preventers or minimisers. That's part of their job in contract administration. Again, I don't have the figure, but if we looked at the remainder of the commercial industrial sectors I doubt if disputes would run at one a week, if that, in this state. I have been involved in some of them, again as an expert witness. But generally it is accepted there are less disputes, simply because of yes, professional involvement, architects' involvement. Even the cost of these disputes is analysed in this report, around \$1200 each. So we have got a basis, or a cost, of perhaps not having professionals involved in a contractual situation.

**PROF SLOAN:** We are out of time, Harry. I just want to ask my fellow commissioner whether he would like to - - -

**DR BYRON:** I would actually, for just a few minutes. I think one of the most important points you make about registration providing information to the public - if I could just get your reaction to a hypothetical. If I walk into a professional's office, let's say an accountant, where he has got his university degree, he has got his membership of the Society of Accountants or whatever and he has got another thing that says "certified professional accountant", which of those three pieces of paper am I likely to put more emphasis on, or be impressed by or reassured by?

If I walk into an architect's office and I see his university degree, his membership of the RAI and his parchment of registration with the state board, which of those three give me the greatest information about the quality, the expertise, the currency, recency, of the person I am approaching as a possible client-provider relationship? I suspect that none of those three bits of paper would give me all the information that I need, but I would then ask the architect, "Can I see an example of your work? Do you have a portfolio? Can you direct me to somewhere where I could go and see buildings that you have designed and supervised?"

What I am getting at is, in terms of conveying information to the public, how much additional information does the certificate of registration add to the

professional

institute membership and the university degree? Wouldn't a certificate that was more like the CPA's certificate, in other words non-statutory, provide at least as much information as the certificate from a statutory body?

**MR SCHUBERT:** That is an interesting one. In fact those three certificates, I suppose, set out those three processes of qualification, validation and registration. I believe the CPA's image, brand, or whatever you like to call it, has been very successful, but at a very high cost. I think the figure of \$4 million was mentioned for that advertising campaign. Yes, with that sort of money, that sort of clout, they have established themselves in a position in the marketplace. But if you compare that with the cost of registering architects, I think it is mentioned that it is less than a hundred dollars per annum. I think the consequence of that would be that probably architects' fees would go way up just to cover that sort of projection, public image, of their particular brand of expertise.

**DR BYRON:** Yes. I guess the line that we were thinking of was that if the state acts were to be repealed, those architects who really are very very good, tremendous skills and expertise to offer to their clients, would then want to differentiate themselves from the riffraff, the less expert, the less skilled, the less experienced; would come up with some sort of labelling or some way of differentiating themselves from those who have lower standards and would market the brand somewhat in the way the certified professional practising accountant or the registered professional engineers have.

I actually attended the last board meeting of the Registered Professional Engineers Board and I was impressed by their statement that, "Some of our members are incompetent and must be weeded out." They were very very jealous in protecting the quality of their brand to make sure that the registered professional engineer label really means something. They have a fairly aggressive policy of continuously auditing and testing their membership to make sure that the respect and the integrity of that brand is not, in any way, compromised.

What I am coming to is that, you know, you have said that if the state acts were repealed, anybody could call himself an architect. If I set myself up tomorrow as Neil Byron, architect - I have no university degree; I have no membership of RAIA; I have no either statutory or non-statutory accreditation - I don't think that I would get an opportunity to cause anybody much harm, because if a prospective client came to me they would say, "Neil, what have you done?" and I would say, "Well, I've never actually designed a building before." I don't think I would get my first contract ever. So how am I likely to do harm if - you know, caveat emptor; unless there is somebody who wants to hire someone with no qualifications, no experience, no expertise, no portfolio. Isn't it an abrogation of due diligence on the client's part if they were to hire somebody as stupid and incompetent in that area as myself?

**MR SCHUBERT:** That is a good point. It may be just the nature of the architect-client relationships, in that often clients do not come to architects' offices. You tend to meet your clients at the building, on the site or whatever it is. So you do

not get a chance to see the line-up of the three certificates on the wall. You simply have to take it at face value that what the person you have met - it may be something as simple as an opinion on a crack in a wall, or how to improve the solar energy of a building or whatever. That person may give you an opinion, charge you a hundred, two hundred dollars or whatever and he has gone, or she has gone.

**DR BYRON:** Yes. But, I mean, the financial planners is another example of self-regulation. They have got a little lapel badge and they are taking out full-page ads in all the major national newspapers saying, "Don't take financial planning advice from anybody unless they have got one of these lapel badges, because we have ruthlessly tough entry requirements, we have auditing, we have monitoring," and all the rest of it. The point that I am trying to make is that is it possible that a self-regulatory system can provide consumers with more information than a statutory regulation board does, particularly if the self-regulation system is proactive and markets itself in contrast to the state registration boards, which appear to be very low profile?

**MR SCHUBERT:** Yes, that may be the case. Professional associations, by their nature, promote themselves as it were and the institute does as well. Whether it will be equally hard on its members and potentially lose 4 or 5 hundred dollars, or whatever the annual subscription is, is another matter. I think we already have a certification process in place. It is probably better to build on that, perhaps provide more promotion, periodic revalidation, than go off and invent a new system that will be run by the players and not answerable to anyone else, as the board now is to parliament.

**PROF SLOAN:** So the argument is keep the architects acts because they are there?

**MR SCHUBERT:** They were put there for consumer protection as many other acts have been - - -

**PROF SLOAN:** They weren't really. If you look at the history, they were not put there for consumer protection. They were put there at the behest of the architects to regulate the profession. There was no consumer protection in the second reading speeches. In fact, if you look at the objectives of the act it is not about consumer protection. They generally say, "This is an act to regulate the profession of architecture."

**MR SCHUBERT:** Well, it is identification, which I think is the - - -

**PROF SLOAN:** But it is factually incorrect to say that they came about in response to consumer protection issues - that is not true - as opposed to the acts that you mentioned, which clearly did come about in response to consumer protection action. That does not deny the possibility that they function to protect the consumer, but that is historically not why they were there. I think we are out of time though.

**DR BYRON:** We are finished.



**PROF SLOAN:** As you know, the RAIA will be making other presentations in our public hearing. So thanks very much, Harry, for coming.

**MR SCHUBERT:** Thank you.

**DR BYRON:** Thank you.

**PROF SLOAN:** I now call on Mr Kent Lyon of Kent Lyon Architect, who is the next person here on our list. If you could state your name and your organisation. Again, we will go into morning tea a bit, so we've probably got enough time to deal with your submission if you just spend maybe five minutes or so outlining your point of view, and then we'll open it up for questions.

**MR LYON:** Kent Lyon, architect with Kent Lyon Architect. I've sent through an outline of my submission, fairly brief as it may have been. I've had a bit of time over the weekend to go back through a few points and some of the points that I've raised in the outline are still valid, but I want to first of all start with the draft report recommendations. I went through the draft report. I don't know it as well as you do, but I did go through the report, as probably many people in the room here have.

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

**MR LYON:** I found some of the points quite valid and then I found the actual repeal to be, if you like, incongruent with some of the recommendations and some of the findings throughout the report. My first point was that I was somewhat shocked and the other point was that I was a little bit appalled that there be this complete sort of throwing out of the baby with the bathwater.

I suppose, moving on, my next point in the outline is what brings us to this point both historically and also in the Australian context. I find that there seem to be the continual economic rationalist reforms that we seem to be going through, as all governments would probably be aware, and it seems to be one more way that we can somehow rationalise things, by saying that the marketplace rules, the marketplace has ultimate control over not just the social context but also the built environment. I found that one of the points in the draft report put together in our draft reply - I guess it would be by the RAIA national office - one of their points they raised was: how can you get production efficiency plus lower prices equalling better service for consumers? Again, I have to concur with them in the way they have conceived it as knowledge plus applied design research and adequate resources equals a better service for consumers.

I am just a little bit worried that there is an overriding statement that the consumers ultimately dictate the marketplace, yet, when I read through the report, I noticed you did make a visit to the ACCC but I didn't see any of your findings that actually referred back to any of the discussions that you had with the ACCC. That concerns me a little bit if the basis of repealing an act, whether it be state or national, is that you'd take a strong point that "the marketplace dictates", that consumers are ultimately the ones that need to benefit as part of the community and that there has to be a benefit shown, as I suppose the onus is on architects or people who are registered as architects to show that they are relevant and that they have some place in the Australian culture.

**PROF SLOAN:** I don't think you have to do that at all. You have to simply

demonstrate that in terms of the architects acts as they currently stand, the benefits are greater than the costs and that there are no more effective and efficient alternative means of achieving those objectives. I go back to the point. It's not about establishing the value of architecture, it's about establishing the value of those acts.

**MR LYON:** Yes, all right.

**DR BYRON:** The value of architecture is not being questioned, it's just a given, and the quality of what architects can do in making that fantastic contribution to the built environment is not on trial here. That's beyond question. What we're actually looking at is the system of statutory mandatory regulation and whether that should be retained or whether there are other ways of achieving the same or a greater level of consumer benefit or public benefit which aren't potentially anticompetitive. You don't need to convince us about the merits of architecture. That's all I'm trying to say.

**MR LYON:** Okay. If I put it into some sort of context, since the report has been brought out I've put forward comments, I've asked builders on site, I've asked other people in the building industry plus I've asked other people who are, if you like, consumers; we ultimately all are consumers in some way or another, as the GST will probably prove. I said to them, "They're looking at deregulating the architectural market. Anyone can call themselves an architect, which is by basically repealing an act that covers architecture and the term 'architect'." They were somewhat astonished and almost protective.

To me their initial response was that it's almost like a signpost for people in society - and I don't talk purely in an Australian context; I think on a global scale - that people look for terms and, if you like, pigeonholes for people in how they can assess a qualification or the work that someone carries out, let's say. You notice, you know, if people are salesmen, "Well, they must have some sort of knack for sales," and things like that. To me, the initial response I got from builders and from other people in my community, which is down in the south-west which is a way out of town, if you like - their initial response I found quite enlightening, because to me it wasn't about being protectionist and looking at an act and saying, "Oh, we're trying to protect something that we've been given by some sort of status symbol or by some elite sort of guarantee."

In one of the points in the outline, my question is, "Is the government looking for a way to debate the value system and encourage mediocrity in our society by basically punishing a person for having the ability to embark upon and achieve a higher education at his or her own expense?" which is an important point. No-one guarantees these rights to be able to go to university and be able to carry out that work, which is now a five-year degree. I've said that to put in five and a half years of work towards a professional degree, gain experience in the workforce and then sit a series of registration exams, then to be told it has all been for naught - - -

**PROF SLOAN:** Dare I say it: I'm not sure that helps the debate. I really don't think it does. I mean, do we have poor-standard engineers in Australia because they

don't have a system of statutory registration?

**MR LYON:** I think people tend to recognise that an engineer has attained a certain professional level and therefore can call themselves an engineer.

**PROF SLOAN:** But there's no legal prohibition on people calling themselves engineers. Do you think Australian engineers are poor, and poor by international standards?

**MR LYON:** I wouldn't say that, no, but engineering to me is much more clear-cut.

**PROF SLOAN:** But they're a self-regulated profession.

**MR LYON:** Sure, yes. I think my other point is that there are many other professions as well, which I don't know that I need to go into, that are self-regulating. The basic principle is that in the building industry - and we're talking here about not just architects but about building construction things - there's actually a Builders Registration Act which says who can call themselves a builder and who can call themselves - I believe it's a journeyman builder, things like that. The person who actually builds the, if you like, product - if we're talking consumers - is registered, but the person who goes through and designs, documents and administers the contract for the same project doesn't have to be. On the one hand you're saying that everyone can be self-regulating, but it's already proven that there needs to be some sort of a balance in what's self-regulated and what's regulated by governments, as some sort of standard to be achieved.

**PROF SLOAN:** I think that is the point in a sense. Then what becomes of the role of the Architects Act when there is in fact a series of direct pieces of legislation which is designed to protect the consumer in respect of the building industry?

**MR LYON:** This is what I said. Some of the items that I agreed with in the draft report were some of those issues. Consumer protection and the requirement of professional indemnity, by all means, would be things that require review and that's what I thought part of the process was, to actually review the acts themselves, which I think I made some comments about. But the point that there are other pieces of legislation and that on many projects there's the requirement for an architect to administer a contract from design conception through to the actual occupation, and not just a small portion of that project, is important.

**DR BYRON:** We have looked at it in comparison with a lot of other professions and occupations, some of which are licensed and some of which are not, and the general conclusion is that activities are licensed when it's considered there's a great probability of harm and when the consequences of that harm are high, but you then license the particular function or activity, rather than licensing the individual and everything he or she may or may not do. The legislation is trying to focus on, "What is the activity that may have a high probability of serious harm?" and that's the one that has to be controlled.

When we then take that principle and look at architecture - and the point came up earlier this morning about the emphasis is on design. That's not something that we came up with. It was given to us by the former president of the RAlA. Heads of university faculties of architecture have said the thing that really distinguishes architects from everybody else - and there are some other functions that other groups can do as well, but the core, the thing that architects can do that nobody else can do is really the design, which explains the emphasis in a lot of the courses.

Amongst that whole raft of activities and functions that architects can and do perform, we're trying to say, "Where is the one that has the very high probability of serious risk that really needs to be controlled?" and if you find that those things are already being controlled by other pieces of legislation, by builders' licensing or something else, the Building Code of Australia, whether it works or not - what we're really trying to home in on is which are the functions that have that high-risk component, and any legislation, if it's good legislation, should exactly address that. You don't address something over here that's not a problem. You focus in on where is the risk to the public and how do you most efficiently solve that or prevent the problem from occurring. That's the sort of logic that we're going through, to try and say, "Well, okay, where's the risk amongst this whole raft of things that architects do?"

**MR LYON:** Okay. On that point, people come to me and say, "What can you do as opposed to what a draftsman down the road can do?" and I say, "Well, I can take your idea, your dream, and take it through to fruition, from the start to the finish." That's not to say anyone else can't, but the point that I would raise is that there are quite a few people who would fall back on - if they provide a service, they say they're the draftsmen, "If you wanted an architect you should have gone and got one." I've heard that comment that many times as a means of assessing what's above and what's below a certain standard.

There are plenty of people out there - especially because we're a bit more isolated, if you like, in the south-west - that do say that they are architects, but if anyone has a question, whether it be a friend or some other client or whatever, I say, "The basis that you should assess it on is not just what they're calling themselves." If they are calling themselves an architect, they should check with the Architects Board first and foremost, because that's the standard they're requesting. They're going to one person here and they're going to another person there and they say, "That architect over there said he can actually provide the same service for half the cost," and I say, knowing full well that that person isn't registered because I have gone through the process before, "You go and find out, then, a bit more. If he's promising you these things, you go out and find out a bit more." To me, the Architects Board does provide that bit of consumer protection.

**PROF SLOAN:** Would they leave it at that, though?

**MR LYON:** Would they leave it at that? I don't know. Some of them, like I say,

are friends. They will say, "This person down the road says that they are or they aren't," or whatever, and I'll say, "Well, the easiest way to go about it is to go and check with the Architects Board.

**PROF SLOAN:** Then wouldn't you be notifying that at the Architects Board, because they - - -

**MR LYON:** Yes, and I think the Architects Board probably has my name on record as looking into a few things as well, so - - -

**PROF SLOAN:** What do you think of the situation where there are a batch of architects out there who've done their five and a half years and they've actually paid for it, who are actually working as architects but it's illegal for them to call themselves architects? What do you think of that situation?

**MR LYON:** I suppose I come originally from a country where that's not unusual, but they have come up with differing terminologies in order to, if you like, sort of notice that the person has undertaken a certain level of education at that point, because there's a level - - -

**PROF SLOAN:** Do you think it should be illegal for someone to advertise that they've got a bachelor of architecture?

**MR LYON:** No.

**PROF SLOAN:** Even though they have got a bachelor of architecture, it's factually true?

**MR LYON:** Yes.

**PROF SLOAN:** But it's actually illegal and the boards have prosecuted persons who've done that?

**MR LYON:** Yes.

**PROF SLOAN:** Is that right?

**MR LYON:** I wouldn't know.

**PROF SLOAN:** Is that right? I mean they've - - -

**MR LYON:** I haven't come across - - -

**PROF SLOAN:** - - - paid for their five and a half years of education.

**MR LYON:** I wouldn't know about that.

**PROF SLOAN:** It is.

**MR LYON:** Often there's a reference to graduate architects as having attained a certain level of education. What I've done is I've brought along, just so you could get a feel for - I don't know how much of this you've gone into, but here's my logbook, as tattered as it may be, and this is between the time that I've received some qualifications and the time that I've become registered, and it's not just something that's - what do you want to say - filled in and then signed by the directors as some sort of course of action that, you know, everybody can get in and do it. You actually have to attain a certain level to be able to then carry on to this next step. You're more than welcome to have a look through that, if you like.

**PROF SLOAN:** Thanks.

**MR LYON:** I suppose, if I can bring it to another point which has to do with the terminology that has been used - and I refer back now to some of my education, which is in professional practice with Prof David Standon, who often referred to the term "supervision", and I notice it's brought up quite a few times in the document itself - within the commission's report but also by some of the items that are noted by another association, the Building Designers Association - as supervision.

Now, what we have been taught and what I can refer back to in practice notes is that supervision - and I think if you've looked at the Builders Registration Act, it's actually an act which can only be carried out by a registered builder - the actual supervision, but contract administration or, if you like, project management, can be carried out by any other person. But supervision on a project implies a day-to-day sort of task. So I think first of all, that was one of my points - was I wanted to try and clear up - - -

**PROF SLOAN:** You would agree with David Standon when he said:

My observation is that the quality of the service is not necessarily related to whether or not the service provider is registered.

**MR LYON:** I haven't read his - - -

**PROF SLOAN:** And he also says:

It is fairly easy for architects to recognise houses designed by project home builders. It is not so easy for architects to see the difference between one-off houses designed by architects and those designed by others. If architects have that difficulty, how much more so does the general public.

**MR LYON:** Yes, I mean - - -

**PROF SLOAN:** So would you agree with those two statements?

**MR LYON:** I wouldn't say I agree or disagree. The point that I raised with David Standon was that he, in his professional practice - I mean, I'd have to read the whole submission to actually make some sort of conclusion about the comments because that would be - - -

**PROF SLOAN:** He also says:

The practice exam does not embrace knowledge of the structural aspects of construction at all.

**MR LYON:** I am not sure what he means by "structural" there.

**PROF SLOAN:** Right, well, he's talking about the health and safety - - -

**MR LYON:** The health and safety?

**PROF SLOAN:** But you are saying that this is someone that you admire?

**MR LYON:** I said someone who lectured me at university - - -

**PROF SLOAN:** Right.

**MR LYON:** - - - in professional practice, which would bring me to my next point, which does then talk about contract administration. Again I've brought along another tattered piece of literature. I do some part-time lecturing, casual lecturing, at the South-West Regional College of TAFE, and I again pose the question about - to students - this is what's looked at - you know, repealing the Architects Act, and anyone can call themselves an architect. They were somewhat astonished at the fact that there wouldn't be - to them, they hold this in such regard. Whether their views are biased because I'm lecturing the class, I don't know, but their basic thing was, "But hang on, then what does it mean for us?" We expect them, with our tertiary education, to become a building designer, and I said, "Well, the way they're talking is that it wouldn't - anyone could - - -"

**PROF SLOAN:** They probably would call themselves a building designer. You could call yourself an economist - - -

**MR LYON:** Yes.

**PROF SLOAN:** Yes - and I wouldn't be offended about that.

**MR LYON:** Yes, okay, I could call myself a doctor, too, but that would be somewhat - - -

**PROF SLOAN:** That's probably not factually true, but - yes - - -



**MR LYON:** No. I think it was a point that Neil brought up. He was saying that he could call himself an architect and go out and set up a shingle and there are - - -

**PROF SLOAN:** No, he couldn't at the moment - - -

**MR LYON:** No.

**PROF SLOAN:** - - - because it is - - -

**MR LYON:** He's posing the case where, if it was repealed, he could go out and be able to do that.

**PROF SLOAN:** What I'm saying is that you could call yourself an economist and I really couldn't care because you're not going to be a competitor of mine.

**MR LYON:** All right, so my point again with this is that the diploma of building design and drafting is - we're talking about the overall processes to achieve a product, if you like, and in here there are things that are covered regarding design, there are things that are covered regarding construction, surveying, some of the basic things that - first of all, it's a two-year course. They're trying to even push it so that you could have a one-year diploma or certificate in housing design, but we've been trying to push against that because I think the minute you start to say you've got some diploma or certificate, the perception by the public and by others out there is that, "Oh, he's attained a certain standard."

**PROF SLOAN:** So they're such idiots, everyone out in the public, that they wouldn't ask those questions?

**MR LYON:** I don't think I've implied that. I think people have in a society an idea, whether it's true or false, and I think these ideas develop over time. I think architects as well have changed and developed over time. The fact that I think there's a point that's raised about the architects acts not having been brought into place until the 20s and 30s: - well, that shows a certain development, if you like, in a country itself, but it also ties in with some of the things that were happening - I believe, anyway - in the Industrial Revolution, and a need for people to be required to be registered in order for - it may not say it in the acts, as you've pointed out, but consumer protection - a way that people could attain certain levels of security.

I think before there were registration boards there was an apprentice sort of a situation, or you were indentured to another architect. So that system has gone by the way and what we're talking about now is a way that we can develop - the architects boards - for whatever reasons, but not throwing out the whole concept.

**PROF SLOAN:** So you think that there's an argument for keeping them because they're there?

**MR LYON:** No. I think there's a good, basic principle and a good basis to work from, and not to just throw out the whole thing by saying, "Look, the reason that we've decided to disband this is because we're under political pressure" - or economic, whatever pressure - "to get rid of it because there's others in the marketplace who would - - -"

**PROF SLOAN:** So there are whole lots of unscrupulous, unqualified engineers out there going around hoodwinking the public, calling themselves engineers, and the public are complete idiots when it comes to using them? Is that your proposition?

**MR LYON:** No, I don't think - - -

**PROF SLOAN:** Because there's no statutory registration of engineers.

**MR LYON:** No, but there's - - -

**PROF SLOAN:** That's the counterfactual, is it?

**MR LYON:** No. I think people who go to see engineers can look at their qualifications but also there's a perception - and no-one would rightly call themselves an engineer without having something to back them up with that.

**PROF SLOAN:** Why not?

**MR LYON:** Why not? I don't know.

**PROF SLOAN:** Because there's nothing preventing them in the law.

**MR LYON:** Yes.

**DR BYRON:** Can we just go back to the point you were making: you've got skills, expertise, qualifications, hard-won experience and you assert - and I've got no reason to disbelieve you - that you've got something really valuable out there that you can offer your clients because of this accumulation of knowledge, skills, expertise. Okay? Now, there's some guy down the road who's done a one-year TAFE course or something. Do you really think that the only way that the public is going to tell the difference between you and him is by reservation of title, which doesn't mean that he can't draw plans and try and compete with you for clients, it's simply about the use of the name?

What we are asking is, are there other ways of much more effectively informing people out there that there's really fabulous, highly-skilled, competent people all the way down to the other end? There are Rolls Royces and there are Volkswagens, and people can actually choose, but the choice the consumer makes is based on getting what you pay for, knowing what you're paying for, not being misled or deceived. But if somebody wants to buy a Volkswagen, even though they've been told that it's not as good as a Rolls Royce, should they be allowed to?

**MR LYON:** But who's told them that it's not better than a Rolls Royce? That's my point - that rightly or wrongly there's something in the psyche that says, "An architect does this." I have a preconceived idea, and that's internationally, that an architect has attained a certain level of professional qualifications. You make it sound like "architects" as a term is something that's guarded only in Australia, and I know you've quoted examples around the world - that it's not protected in such a way. I don't know what their culture is, but they've definitely got high-quality buildings. I think the fact is that most of the world recognises that if you're an architect you've attained a certain level of understanding of the building processes and things like that.

By opening it up and saying that anyone can call themselves an architect, by repealing the act to me sort of adds confusion, first of all, to the consumers. You talk about there would be a two-year process while - - -

**PROF SLOAN:** That's assuming they knew about it in the first place.

**MR LYON:** I think most people do. Most people I've come across know about the repeal process.

**PROF SLOAN:** About the architects acts? We've got very little evidence that there's much consumer knowledge of them at all.

**MR LYON:** Oh, right. I wasn't sure. This is in discussions with the ACCC or - - -

**PROF SLOAN:** Yes, and with the boards themselves.

**MR LYON:** Right. That's probably something they would need to work on.

**PROF SLOAN:** The boards would argue that they don't have the money to market their functions - and their existence, indeed - which is probably right.

**MR LYON:** Yes. I suppose that's where we, as individual architects who are registered, have the abilities or the way - I often think of mine, and that's why I've taken up casual lecturing, because I feel that informing people and educating them is a way of trying to open that up a bit.

**PROF SLOAN:** Kent, we must wind it up there. Thank you very much for your contribution. We will now have a break and resume at 20 past 11.

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**PROF SLOAN:** We will now recommence the public hearings on Tuesday, 6 June 2000 on the review of legislation regulating the architects' profession. I call Mr Warren Kerr. Yes, you come up, too. For the purposes of transcript, could you tell us your names and your affiliations.

**MR KERR:** Certainly. Warren Kerr representing Hames Sharley, a multidisciplinary architectural practice based in Perth.

**PROF HEGVOLD:** I'm Prof Heggvoll. I'm professor of architecture, head of the School of Architecture, Construction and Planning at Curtin University.

**PROF SLOAN:** Thanks very much. Warren, would you like to start off? We've got about until noon, if that's all right.

**MR KERR:** Yes. Thank you very much for the opportunity to speak today. As I indicated, for the information of those present, we've put in a submission which outlines a number of issues that we'd like to raise. Basically the view of Hames Sharley is that we do not believe that the recommendations of the Productivity Commission recommending repeal of the Architects Act is in the best interests of the consumer, the built environment in Australia and also the profession. What we have done in the first couple of pages is actually outline from Hames Sharley's point of view their interest in this inquiry, and that basically is looking at the future of the profession and the benefits that the architects acts impose in terms of professional development.

From our point of view, we've seen young practitioners come in, and there is policy within the practice of assisting them to gain registration, watching them put in the effort, which we don't believe would happen if you just had a free-for-all process, where someone who graduated from university then came through and was able to call themselves an architect without having that practical experience, and at the end of that time then being virtually forced to go through a process where they learned to look at how a practice operates, the various contracts being used, and issues that are then examined by the Architects Board.

The other point we would like to make in interest about the entire process of the Productivity Commission, and that's its review is based upon looking at the architectural profession per se, rather than at the whole issue of the production of a building. I'm sure all of us would understand if we say over the last couple of decades there have been remarkable improvements in technology and manufacturing processes, and in the report I've outlined one example, because the Productivity Commission in its report mentions that - their whole mandate appears to be outlined on page 5 of the introduction to the report which states that:

Competition generally will foster production, efficiency and thus generate lower prices and better levels of service for the consumer.

We would agree with that, but say that's applying to production line for industrial goods and products, etcetera. As an example, I've quoted in the report - say, for instance, videotape recorders which we're all familiar with: over the last two decades there has been an incredible increase in sophistication, the price has gone down. They've got more features on them than probably anyone in this room will ever need to use or even have the time to actually program and learn how to use. But if you were to conduct a Productivity Commission report into the production of VCRs, it's highly unlikely that you would just look at the design of VCRs and then look at that as one part of that entire process.

What we say in the report is that you're examining the architectural profession and looking at it only in terms of the design and its role and function in the production of buildings. The point we make is that if you are looking at those improvements which have occurred in an industry such as production of VCRs, then the time and energy and the benefits that have accrued with lower prices, better design, more sophisticated outcomes were not predicated on the basis of minimising the time and input into research and design. It is probably the reverse, where far more time and energy has gone into researching what the needs of the customer are, getting a proper brief, looking at how best that planning and design for that should improve the final product.

We, therefore, take issue with the assumption made in the report that basically you're having a process or examining a process in which you're trying to minimise the time and the resources devoted to design of a building, without any thought therefore for the outcome of that. Certainly from our experience in our practice, it's the amount of time and energy you put into design, the amount of investigation you do and how that then reflects in the final product. Certainly you can cram that down, so the first thing that comes into an architect's mind we can put on paper, get it drawn up, put it out in the market, and someone could then come back and say, "Gee, you've done that very quickly," and, if you were just looking at that part of the process, say that that was efficient and effective. But that would just be looking at the design process, not at the implications for the building, which may have very high operating costs, may be far inferior design and may, therefore, also not serve the community all that well.

**PROF SLOAN:** I don't think we have any view on this matter at all.

**MR KERR:** That's the point I'm making.

**PROF SLOAN:** But how is that related to the act?

**MR KERR:** That in the report you need to recognise that architectural design is part of a production process for a building, not an end in itself.

**DR BYRON:** I'm not aware of anywhere in the report where we're suggesting that intense competition and forcing down the price of fees is a good thing; in fact, quite the opposite. The purpose of this inquiry isn't about minimising the total cost of procuring building. We're not asked to assess, in this inquiry, the quality of

architecture or the quality of the people who practise it in Australia. We're looking at the system of regulation and whether or not it inhibits competition.

**PROF SLOAN:** If this is a central issue, I'd like you to tie it back to where the architects acts fit into this.

**MR KERR:** Certainly.

**PROF SLOAN:** Because the architects acts have been in existence over this period of time where you see the architectural input having been squeezed.

**MR KERR:** Would I see the architectural input having - - -

**PROF SLOAN:** Having been squeezed.

**MR KERR:** Basically I see the architectural input having been squeezed in the last decade, where there's been an incredible pressure on fees and deregulation and fee bidding, effectively. That has resulted in poor documentation on many buildings. There has been a CSIRO study recently done which has shown that the poor documentation on buildings often ends up costing more in terms of the final building cost, etcetera.

**DR BYRON:** That's exactly the point I meant to make before. The commission conducted a major research study, which came out a few months ago, on improving the environmental performance of commercial buildings. I had a lot to do with CSIRO, the people who produced that report, and one of the messages that really came out of that very loud and clear is if you had to put it in a bumper sticker it would be, "Good design doesn't cost. It pays."

**MR KERR:** Exactly.

**DR BYRON:** The point that we have to clarify is whether a system of statutory, mandatory reservation of title is the best way of conveying to the public all the expertise that architects have to offer, or whether there are other ways that could give greater public awareness, information, confidence, security - which aren't inconsistent with the competition principles. We're not here to do a market research consultancy for the architecture profession. I accept, personally, that you have a great deal to offer, but the community out there frequently doesn't appreciate that. That suggests that you have a problem in marketing what you have to offer to clients.

If you rely on reservation of title under old legislation, it simply doesn't do that job for you. It's not helping you to differentiate the superior services that highly-qualified, highly-skilled architects can offer. The public out there are ill-informed about the difference between the really good and the really ordinary and the really substandard. So rather than saying, "Well, we'll go back to reservation of title. We own the word. Anybody can do the work but we own the name," which clearly isn't doing very much to help either the public or the profession, if there was a

co-regulation type of arrangement where the information was more actively disseminated, people would actually know the difference between the really good, the ordinary and the really bad and could then make informed choices.

**MR KERR:** I agree with the fact that the public is misinformed but I don't believe that by letting anyone use the title "architect" that they're going to be any better informed. In fact, in your report you quote Hodge and Collard. Peter Hodge put in a submission and you've quoted him virtually the reverse of what he was trying to say. You're saying, "Because they say that there is a lot of confusion out there, it highlights the fact that you don't need the title." The point Peter was making in his report was that we only at the moment have the title to go on and at least that differentiates us from a whole raft of other people.

At the moment I'm getting paid an enormous sum of money by a team of lawyers to actually advise them on a design consultant who has done a medical facility, which is my area of expertise and competence, and the owners of that now are suing those design consultants because they weren't aware of all the standards and guidelines that they should have followed and they can't use the building. They are uninformed clients who didn't recognise that when they initially took on those design consultants. In other areas where an architect has at least its name - and I think you'll find that there are others who have been from the Architects Board of WA and I can speak with some understanding of that issue because I spent six years as a board member.

There were many, many times when complaints came to the Architects Board of people who thought that they actually were dealing with an architect, and these were not architects and then they would find that out at the time they wished to register a complaint. We have a system which differentiates that. It's not a perfect system but it's a hell of a lot better than just having a free-for-all of letting anyone go out there and call themselves an architect.

**DR BYRON:** But the system of differentiation only works if the public out there, the potential clients, know about it and understand the difference. You and I understand the difference between an architect who is registered and a building designer, but what we're being told over and over again is that Mr and Mrs Smith out in the suburbs don't know the difference. If we want to make a case that the state acts need to be retained because they're informing vulnerable consumers, we need to be able to show that vulnerable consumers are actually benefiting from the existence of the acts. If they don't know about it, if they're not getting the protection, they're actually falling through the net that was designed to be their safety net.

**PROF SLOAN:** Because if they go to the board and are told ex post that the person's not a registered architect, the board then of course has absolutely no purview over that matter.

**MR KERR:** Correct, but the board has actually been - - -





**PROF SLOAN:** But what kind of consumer protection has it therefore provided?

**MR KERR:** The board is being proactive - - -

**PROF SLOAN:** None.

**MR KERR:** - - - and during my time on the board it started using the funds of architects to put an advert in the Yellow Pages saying, "If you're looking in here to try and find an architect, please ring the board and check." That was mainly because - again without sourcing and things of this nature - in the old Yellow Pages they used to actually ring the board before they'd take an advert to put into the Yellow Pages. Under the new outsourced arrangements anyone who pays money can get themselves listed in the Yellow Pages. The board has said, "You're in violation of the act by advertising yourself as an architect," etcetera, but Yellow Pages wouldn't agree to do anything about that. So the board put money into actually having a large advert in the Yellow Pages saying, "If you're coming to the Yellow Pages to select an architect, please check with the registrar of the board to check if you are dealing with an authorised architect."

The second point that we make - and this is a point that's far more dear to our business - Hames Sharley currently earns between 28 per cent and 32 per cent of its income from overseas consultancies. We are adamant that having registration is a major assistance in gaining overseas consultancies because it provides the bona fides of our firm and others operating in that market to actually win that work. That pertains to South-East Asia and India, New Zealand, the South Pacific, where we undertake work.

It's a major issue as far as we're concerned because, while you say in the report that other mechanisms may actually apply, there are two issues with that: one, you don't define them and, under my reading of the terms of reference, you should actually then look at the implications of them, so if you don't define them how can one assess the implications? In your report you state that you have no idea of what the implications would be if the acts were repealed, which I think again is in violation of the terms of reference, because presumably we're going into this great unknown without any recognition of what the implication and costs are going to be, either on the community or our overseas trade position. You use statistics in there talking about trade - - -

**PROF SLOAN:** Can I just pick you up on that point?

**MR KERR:** Yes, certainly.

**PROF SLOAN:** This is the draft report and, in fact, we've done considerably more - made more effort and done more work on this very issue, including looking at a range of APEC initiatives in relation to mutual recognition and the like. This was one area on which we were seeking comment.

**MR KERR:** Yes. The comment is provided in the report.

**PROF SLOAN:** Yes. Can I just make the point, though, that engineers and accountants are doing a lot of work in South-East Asia and yet neither of those two groups have government registration.

**MR KERR:** I understand that, but I - - -

**PROF SLOAN:** So it's clearly not a requirement.

**MR KERR:** But do you have information about the impact of non-legislative registration for engineers on the work that they may be able to get and that they lose out to other countries where engineering is legislated and therefore the US and Japan, etcetera, who are doing work in that region, then beat our consortiums?

**PROF SLOAN:** We have sought a lot of information from the engineers. We do have that in hand.

**DR BYRON:** The APEC engineer system starts next month, I believe, with (indistinct) countries.

**MR KERR:** Obviously while we're presuming that the final report will have many factual errors corrected in it, we are trying to obtain as much information and put that in submissions to you so that you can use that. One of the feedbacks we have received is that only 10 per cent of engineers who could be registered on the engineers registration are registered with that. Again, when you look at the facts of how many - - -

**PROF SLOAN:** That's true. But what it tells you is that it actually is not a requirement to work overseas.

**MR KERR:** We don't know that. I don't have figures telling me whether it's that 10 per cent who are doing the overseas work and that is the only reason they're registered. We don't know how many people are going overseas and not gaining commissions because they aren't registered or don't have legislative requirements for it. In our case many of those engineering consultants come within the banner of the architects. We go out to a client and say we can do a project and then say, "We're legally registered and we would recommend that you use these subconsultants who then report to us." So it's not a major issue. We are covering, or the principal consultant in that regard in many of those consultancies. It's a difficult issue to determine, but I think to recommend that we abandon registration without looking at all those implications is not a considered course of action.

**PROF SLOAN:** We, as I said, regarded that as an important area to follow up on and we have been doing that.

**MR KERR:** We do work in many countries and many of those have registration

authorities of their own. In the report you quote three countries that don't have registration: Denmark, Sweden and Ireland. We've sent off emails to find out about that and to date, just because of the timing, we've received one back from Ireland saying, no, they don't have registration; they've been lobbying for it for many years. The government has now accepted the need for registration of architects. It has currently drafted up that legislation and it's currently being debated in parliament and they're hopeful that by the end of this year or early next year they will have a legislated basis for registration of architects in Ireland. They have said this has come about because of so many problems they've had.

On my understanding, and not from an economic viewpoint, just looking at all the countries - and I think I can provide you with a list of 60, 70, 100 countries - certainly every UIA member country has registration, legislative registration of architects. It seems to us a brave step to be the one that is going to deregulate - sorry, repeal the acts for the profession, not deregulate - in the face of everybody else in the world going that way.

**PROF SLOAN:** They are of course regulated in very different ways across the world.

**MR KERR:** Yes.

**PROF SLOAN:** You probably don't want to go for the Nicaragua model.

**MR KERR:** I'm sure there are a range of models going to everything from the Kentucky Fried model through to the Hilton model.

**PROF SLOAN:** In Britain, for example, there is reservation of title but only as it relates to architecture. There is absolutely no reservation of any of the derivatives. What would you think about that? There is no legal restriction on using the term "architectural", for example.

**MR KERR:** Yes, and again I note you quote that in the report regarding the UK. The information we have received back through my time on the Architects Board and just personally is that causes an enormous number of problems for them. At the moment, as you're aware, we do have that constraint on that and, from my experience on the Architects Board, that assists in delineating the market between building designers and architects. There have been a lot of campaigns waged over many years for those people to say, "Okay, we're not interested in architects, but let us say we're architectural consultants or architectural designers, etcetera, because that's almost there and we can probably then lead the public to believe we're architects without violating the act." I think it's a very important part of the act, to actually classify that, and it helps enormously in the consumer's mind to actually allow them to understand that they're dealing with a qualified, registered architect.

**PROF SLOAN:** What do you think of a situation with a person who has a bachelor of architecture, who is actually working as an architect, but it is illegal for them to

call

themselves an architect? In fact, it is illegal for them to write that they have a bachelor of architecture after their name.

**MR .....**: It's not in WA (indistinct)

**PROF SLOAN**: It is in some of the states.

**MR KERR**: It is in some of the states and as I say in my submission I've been - - -

**PROF SLOAN**: What do you think of that?

**MR KERR**: - - - registered in ACT, Victoria, Tasmania and Queensland, so I have an understanding of those acts as well. I personally believe that those people could, if they have passed the theory and the training and the exams of the WACA, have a right to call themselves architects. I have many colleagues who have bachelor of architecture degrees and have gone into different phases of the industry but if they were then able to say, "I can handle this project, or that project," they'd get into a number of problems. Even with younger members of our profession - - -

**PROF SLOAN**: But that's true of registered architects who become specialised, too.

**MR KERR**: It's true of many, but at least there's a benchmark on which you can be gauged. I mean, we're looking across the industry. Every industry in Australia at the moment is improving practice to world's best practice, setting benchmarks, looking at how we can improve. The reason we put this submission in and have taken the time to do that is to assist the profession to improve so that we can provide a better level of service to our clients and the community in general.

One of the concerns we have is the lack of training and research and development which used to happen in government authorities, such as the PWD in WA, but no longer occurs. But we believe that there should be a fairly high benchmark, because it's a very complex process. I have seen through my own experience many large projects go off the rails over many years. The point made in your report, that even people - for instance, hiring architects for hospitals and major public buildings is fairly sophisticated. You'd be surprised at the number of times where we've dealt with a major public hospital who is going into a major health facility and they don't have the backup of an organisation like the Department of Contract and Management Services. They don't have a very good perception of how to choose an architect or what they should be asking for.

**PROF SLOAN**: Can I just go back to that point, though. It's not providing much information, is it - registration?

**MR KERR**: I think it could.

**PROF SLOAN**: It's telling me that someone, say, graduated in 1956 and became

registered in 1958.

**MR KERR:** Yes.

**PROF SLOAN:** That's it. It tells me really nothing else at all. And they pay their hundred bucks a year.

**MR KERR:** I think the other point that isn't recognised in your report is that for many years - certainly in my personal experience - there's been lobbying going on for 15 to 20 years to get upgrade of the acts in the ACT, WA, Victoria - to my knowledge.

**PROF SLOAN:** Yes, but we are just - - -

**MR KERR:** No, I know that you - - -

**PROF SLOAN:** That's fine, but we have to look at the acts as they stand.

**MR KERR:** Yes, but the acts could be improved enormously. The board in WA would certainly endorse that. I know in the ACT they would endorse that because I was personally involved in both boards to try and improve the act in those localities. But I think you could have - - -

**PROF SLOAN:** So they provide very little information; the public doesn't really know about them, and yet they're there to protect the consumer.

**MR KERR:** I think they could be improved enormously by including continuing professional development, and fund them to actually enable them to do their role. At the moment in WA any income is only generated by architects putting their money into the purse. If they prosecute someone, all the costs come out of that fund but any fines go back into "infernal" revenue. If the board goes out and advertises its complaint service, etcetera, that has to be funded from within, which I don't think is an inappropriate use of those funds, but I think that could be greatly improved. I think that's one issue I would like to see more detail about in your report, about how you could - - -

**PROF SLOAN:** And they restrict advertising here - - -

**MR KERR:** Could I just finish - how you do improve that so you would make the registration act a far better vehicle for protecting the consumer.

**PROF SLOAN:** Okay. We, of course, couldn't do that because we just had to look at the acts as they stood. But if you look at our chapter 9 - - -

**MR KERR:** If you ask for further information on that - - -

**PROF SLOAN:** If you look at chapter 9 there is - - -

**MR KERR:** - - - I'm sure every board will be quite happy to detail the efforts that have been made. A lot of people in this room have spent countless hours of their own time trying to improve those acts and get them to become a priority in state parliament, to have those amendments made so that the boards can more effectively undertake their role.

**PROF SLOAN:** Is there not a lesson therefore in that, that you could have pushed on and indeed, to a degree I would argue that you have pushed on, through self-regulation?

**MR KERR:** I think there is a mechanism there which is working reasonably well, far better than having nothing at all, and could be improved quite substantially to fulfil the requirements that you outlined in the report. I believe that should be tested rather than saying, "Let's repeal all the acts, but we don't know what the implications are."

**PROF SLOAN:** So the engineers are not world class in - are Australian engineers not world class?

**MR KERR:** I think there is a range of engineers in Australia.

**PROF SLOAN:** Okay, and the fact that engineers don't have any statutory registration makes them worse?

**MR KERR:** I think there are issues that pertain to that, and the point I keep coming back to is that often an architect is the principal consultant and he is asked to advise the client. Once he is appointed he advises the client through his knowledge of the industry on who are acceptable subconsultants, such as engineering consultants. It's that first link into an architectural consultancy - - -

**PROF SLOAN:** That's not always so. Engineers are often employed directly.

**MR KERR:** No, it's not always so, but I'm saying it is a consideration. Often there may be a project manager involved who has architectural background, who knows the industry, who can then advise the client as well. It's that first link in.

Can I go on to the second point, because I also think this is very important. In WA there are many overseas students who come in to our universities and study because they know that at the outcome of that course they'll be prepared with some practical experience to therefore sit the registration exams and that is seen as a major incentive. If I could ask Laurie Hegvold, professor of the Department of Architecture Construction and Planning at Curtin University to speak on that point.

**PROF SLOAN:** All right, professor.

**PROF HEGVOLD:** Yes, thank you. I'll just broaden it a little bit. I would argue



that the Architects Act or statutory regulation really ensures one thing, and that is international confidence. I will come back to that. I think it should ensure public confidence within Australia and I would like to come back to that, because I think right now there are weaknesses in the act. I would agree with you on that. I would also try to argue that the way to deal with it is not to throw the thing out, but to strengthen the acts in such a way that they do engender public confidence and ensure the competency of architects - who should then be called architects.

When it comes to international confidence I think this is not an easy thing to deal with conceptually, but there is an international culture in architecture which is different from engineering. So the engineering example you offer is relevant to a degree but the culture of engineering internationally is not the same as the culture of architecture internationally. That would take a lot of defining, but it just isn't the same.

When it comes to recognition, particularly in our part of the world, one could go on at length about the cultures of Scandinavia and why regulation isn't as important there, because of the nature and the culture of those people and their longstanding adaptation to good design and so on - something we can't say in Australia for a start. That simply isn't true of our population at large. Even though that may sound condescending, it's a fact.

But when it comes to international confidence, there is no doubt that the students - I'm active in this. We have our courses running offshore in Hong Kong, Singapore and Malaysia. I'm in touch with the government there, with the Ministry of Education, and I could give you many anecdotes as to why not having government certification will cause us problems. I could give you two most recently: in Hong Kong, having a course accredited, they asked us to prove that the Curtin University was, indeed, a government-sponsored, or whatever you want to call it, university. Now, do you think we could get that out of the Education Department? No. All we could get was a letter saying that as we had agreed to the national unified system we were eligible for government funding.

This went down like a lead balloon in Hong Kong. This didn't sound like government support at all, or a suggestion that it was a government-approved university. But the Education Ministry here would not write a letter saying that we were, in fact, a government-approved tertiary institution. That in itself caused difficulties, because of the nature of regulation in Hong Kong which is generally pretty solidly government based. Same in Singapore and Kuala Lumpur. Recently we had a problem with the registration board in Malaysia having some concerns about any course that gave advanced standing for Malaysian diplomats coming to any university in Australia.

They questioned whether they would receive the same recognition as our course does in Australia. They contacted the board, not the professional body. They were not in the slightest bit interested in contacting the RAIA, who they see as not having any domain over this. It's a government matter to certify professional courses,

as is

done in most countries but three, we have established, in the world. So their view is that if we don't have government certification, then we will not be recognised through any reciprocity. That, I'm sure, could be got in writing from them. I was told this categorically by the board, it's called LAM, Lambada Architecture Malaysia, in Malaysia, only last week or the week before when I was there. When it comes to students, as soon as this word got out that there may be a problem of accreditation, students immediately left Australia, immediately, and went to the UK.

**PROF SLOAN:** Have you got evidence of that?

**PROF HEGVOLD:** I think we can get it, yes. Or went to another university where they thought - they were very confused. They thought maybe one university had a problem and another one didn't. I can certainly give you evidence of students transferring from one to the other, even though the same conditions apply to the one they went to, simply because they were misinformed. It is that touchy. I am meeting regularly, on a weekly basis, with 30 Malaysian students at the moment, because of the difficulty they perceive with registration, and they are trying to decide whether they should finish their degree in Australia or go to the UK, simply because of this possibility, and a remote possibility, that they will not be recognised in Malaysia, because of a technicality that is trying to be resolved at the moment. We are heavily involved in resolving it, I might add. So yes, I can certainly give you evidence. I could get a letter signed by the students, I'm sure, indicating their fears, because of this possibility.

**PROF SLOAN:** But the area which has been most successful in Australian higher education, attracting overseas students, is accountancy.

**PROF HEGVOLD:** Different culture. I cannot speak about accountancy, sorry.

**PROF SLOAN:** But this is an important point. There is no statutory registration of accountants.

**PROF HEGVOLD:** But there is in architecture, and it's internationally based - - -

**PROF SLOAN:** But there is a very strong self-regulation in accountancy.

**PROF HEGVOLD:** But what can you say if I tell you, and I can get letters to the effect, that students will not come here if we don't have a government-certified system. How can you argue against this fact if I can get evidence for you?

**PROF SLOAN:** Okay, let's provide the evidence - - -

**PROF HEGVOLD:** It's no good saying accountants don't need it. They don't need it, but architects do.

**MR KERR:** We can provide you with - - -

**PROF SLOAN:** So that is saying we have to keep them, because we have got them?

**PROF HEGVOLD:** No, I am saying that the tendency in the world has been to strengthen architects acts and regulate the practice of architecture, which is another matter. I was coming to this in conclusion, but I fail to see why the outcome should be just to abandon these acts, I fail to see why it is not within your brief, I can't understand why it isn't, to put up the alternatives, one of which is to abandon them and see what happens with all of its unknowns. The other one, which is much more certain, is to properly regulate the practice of architecture, as is done in most countries.

It can be done through a tiered system. You can have people who just have a degree doing certain things but, believe me, a degree is not sufficient. The two years that comes after the degree - especially now that we are working on competency standards for regulation, the boards are now using them, and we are now using competency standards in the revised education policy of the RAI. I would argue that a system of regulation of practice, based on competency standards which require compulsory PI, professional indemnity insurance, and compulsory professional development, would be a much better indicator to the public of the standards of practice.

I don't understand why this is not an alternative that shouldn't be looked at, because it is just as viable an outcome, if not more so, than the one that is being proposed in this report. Really that is all. I could give you more details, I could give you more evidence, I think. You see, we do live in an environment whether we like it or not. We are part of Asia. We are having this difficulty - are we, are we not? But, in reality, Asia is our trading domain by and large, and if we don't comply with their expectations, if we don't do what they do - that is from China right through the whole of South-East Asia, where government certification is the norm, where they are suspicious, totally suspicious, of any situation where the government will not certify - if we don't comply with that then we stand to lose, just in architecture alone, something conservatively over 100 to 150 million dollars market a year.

We will not get the students. It is no good saying there are other ways. There are not other ways, and I have explored this in great depth. There are not other ways. If we do not have a government certification system - they have said, categorically, self-regulation will not wash in South-East Asia. I am sure if we could try to get letters - - -

**PROF SLOAN:** That would - - -

**PROF HEGVOLD:** It's not easy to get letters. It's very hard to get any letters with opinions of any kind, you might understand, out of some of these countries but one could try. But I have no doubt in my mind that this is the case.

**DR BYRON:** You said in architecture alone, just in architecture.

**PROF HEGVOLD:** Yes.

**DR BYRON:** I cannot think of anything else, any other industry, sector, occupation, group, or anything else, where that would apply, because - - -

**PROF HEGVOLD:** Some other professions are - - -

**MR KERR:** What, in law and medicine and things of that nature?

**PROF HEGVOLD:** I can tell you some: you cannot train teachers in Australia for Indonesia, or more South-East Asian countries. They are not recognised by their government, their qualifications. They do not come here for those areas. There are a whole range of areas where students do not come to Australia, because they are not certified appropriately, believe me.

**PROF SLOAN:** Those occupations are certified though.

**PROF HEGVOLD:** No, education is not.

**PROF SLOAN:** In most states there is registration of teachers.

**PROF HEGVOLD:** Yes, okay.

**DR BYRON:** So state registration is neither a necessary nor sufficient condition.

**PROF SLOAN:** Right.

**PROF HEGVOLD:** Not necessarily. I think you have to understand the culture of each discipline, and that's what I came back to at first.

**DR BYRON:** I think that is the main message.

**PROF HEGVOLD:** There is a very strong argument there that the cultures of different disciplines, internationally, and strengthened more so with reciprocity agreements and the like that are coming up with internationalisation, these cultures are becoming more embedded and stronger. Warren mentioned the UIA for architecture. Basically they are a group of countries, maybe a hundred or so, and to the best of my knowledge they are all government certified. That is the basis for reciprocity. If anyone is self-certified, the fact that you are recognised by the Commonwealth Association of Architects or the UIA, international, will not be a sufficient requirement for reciprocity, I can guarantee you that. That has already been stated as far as I know. Certainly it has been stated by the RIBA only last week at a conference I was at. When they heard about this report they said, "Well, we won't recognise you."

**PROF SLOAN:** Bear in mind you have to understand the incentive to say that. But there are a lot of mutual recognition initiatives going on, particularly with APEC.

**PROF HEGVOLD:** I understand, and it may be seen as self-protection in a way too, I understand that. But nevertheless, if we're the only one out of it and we are the main focus for education in South-East Asia - it brings into us now 3 and a half billion dollars a year. That is the whole education scene.

**PROF SLOAN:** Most of which has got nothing to do with registration.

**PROF HEGVOLD:** A fairly high component of that earning is in architecture. It is a huge burden to lose that on education for a start. So I would simply be arguing that, okay, there is a weakness in only protecting the name of "architect". That seems rather silly to me. I would argue though that it's anything based on competency and a full understanding of how to provide public information and protection, that the way to go would be a better form of regulation. There are plenty of examples of it. There's the tiered regulation and registration in Japan, Italy and other places, where different people with different qualifications and certifications can operate at different levels. You know, you cannot build a 50-storey high-rise building if you are a category 1. You are limited to four storeys or something.

There are ways in which the whole profession, including the paraprofessionals, professions can be structured vertically into such a system, which the builders have tried to do in this country - quite successfully by the way - and I think it is quite a good model. It is a pity that we do not maybe look at that as another possibility, although they have a registration system at the upper end but not at the lower end and so on. So there are models, I think, that could be followed. I probably should stop.

**DR BYRON:** We have looked at that. Could I get your reaction to the form of statutory licensing and control of practice in the US, where I believe that although they have control over title and practice it doesn't apply to residential construction under three storeys. Particularly, the angle on this is the protection of the vulnerable part of the, if you like, ill-informed public, the people for whom this is a once-in-a-lifetime activity and their entire life savings is going on a house.

**PROF HEGVOLD:** Yes.

**DR BYRON:** I mean if ever there's a consumer protection case it is for this poor Mr and Mrs Smith in the suburbs in those circumstances.

**PROF HEGVOLD:** Yes.

**DR BYRON:** Under the US system, they're the very ones who are not protected, because even with control of practice anybody can put up a house as long as it's less than three storeys.

**PROF HEGVOLD:** Personally, I believe that anyone who is able to have that much

domain over someone's life savings ought to be subject to some scrutiny. The least they should do is carry compulsory professional indemnity insurance at an appropriate level for that activity. That's what I believe personally. That can be done through a tiered structured registration, or regulation if you like, of a profession, which can allow the person, provided they sit appropriate exams, to get appropriate levels of coverage and do appropriate work. There are other examples by the way, it's not just the US, you know, where you are allowed to do a building so high, of so much area. They have to have certain qualifications to do that, but they cannot go beyond that, because they do not have the structural knowledge possibly.

When you think of someone going through a diploma course, after all, you are talking about two, three, whichever, years after intermediate high school. A maximum of, say, three. You take someone doing an architecture course and becoming registered, you are talking two years to finish high school, a five-year course, two years, right? What is that, nine years? You are talking about the difference between three years and nine years. To say that this is of no meaning in itself, you can only then just survive on your reputation. To me it seems to be missing the point somewhat, in terms of the ability and competency that you expect of people at different levels in the business, shall we say, of designing buildings, and that ought to be recognised in some way.

I was saying earlier, and I will finish with this - this may be a little bit flip. Let's say you go along to someone like Warren, "Are you an architect?" He says, "Sure, isn't everybody?" You say, "Okay, fine, I can live with that. But do you have a degree?" "Yes, I've got a degree." "Would you happen to be a member of your professional body, because if you are you would probably have some code of ethics and so on. That would be useful." "Yes, I'm a member of the professional body." "So are you up with your professional development, because I believe the architects have that in their self-regulated system?" "Sure, I have got that too." "So you've got full professional indemnity insurance? You have never had a claim against you? You are in good shape, are you? By the way, I like what you do, so maybe we could get together and do something, all right?" How many people are going to do that in our relatively unenlightened environment?

I mean, you go to the doctor, as I said earlier. You go to your GP and he says, "You have got a problem and someone is going to have to open up your heart, take it out and put a new one in," or something. So what do you say, "Well, what do you advise?" "You know, Joe Bloggs down the road, he has done a few jobs for me in the past. I mean, I can recommend him, he is a good surgeon. Go to him." Now, how often do you go along and sit down and make a special appointment and say, "Can I see your qualification?" You are going on the basis that the person who referred them is certified, reputable probably and he or she has made some judgment about the skills of somebody else. You could say that is just reputation driven. I would suggest that it is reputation driven, based on a certification system that gives it credibility.



**PROF SLOAN:** But bear in mind that a lot of that information is not included in the current regulation.

**PROF HEGVOLD:** I'm not really trying to defend the current acts. The current acts, as you said, were not written to protect consumers. I understand the simplistic view, and I would say it is simplistic, that we simply react to what is there. After all, most states have been trying to reform their acts for years and various things have slowed that down or stopped it, including this activity which has caused them all to stop for the moment.

**PROF SLOAN:** Maybe a better model is to get rid of them and to focus on self-regulation.

**PROF HEGVOLD:** No, I don't think self-regulation is going to deal with our problems internationally.

**PROF SLOAN:** They have taken a long time to get nowhere with - to approve the regulation - - -

**PROF HEGVOLD:** Yes, but the point is that, internationally, self-regulation will not work. I have no doubt in my mind about that. One would have to try and prove it somehow. But it would not work, and it certainly will not work for the education system in terms of exporting education, and I doubt if it will work effectively for exporting services. Yes, some architects work on reputation. Norman Foster made a submission to a new convention centre here recently. No-one was too worried about that. He has got a reputation. He had to have a local architect though, who was registered, to go along with it.

I would like to make two points in finishing up: I haven't studied why the British deregulated only for nine months in 92 but then went back to a regulated system, as I understand, in the interests of the public. For nine months, I understand, in 92, they were deregulated; it did not work and they went back - and they were obviously lobbied by the architects no doubt, but they reverted back to a regulated system. You may know about that. Presumably there are reasons for that but I am not familiar with them. The only other point I am curious about is you constantly use the term "architects" in this commission in referring to non-registered people. I thought that was illegal, and shouldn't you only use the term in reference to registered architects?

**PROF SLOAN:** Well, I think you make my point very strongly there. Warren, would you like to add something?

**MR KERR:** Just a couple of things. You asked for evidence of what impact repeal of the acts would have. Normally within WA there are 20 to 25 architectural graduates sitting for practice exams each year so that they can consolidate their position and their practical experience and then go before the board for oral and written examinations, to then go on and call themselves architects. Since this Productivity Commission inquiry has been announced, that's dropped to four to five this year, so it's already had an impact in terms of people who aren't going to go

ahead

and gain that extra experience, read more widely and subject themselves to examination. So I think the issues that Laurie has mentioned in terms of impact on overseas students and others are important.

The other thing, I think, to understand is that what we are actually arguing for are greater constraints on our profession in terms of ensuring that there's a high level of competency and standard within the profession. From a business point of view it would be very good for Home Charlie to have to not worry about any of the constraints and make it very difficult for consumers of our services to try and prove to us - or sue us or something of that nature, on the basis of the legislative requirements that are currently contained within the act. What we're actually arguing for is to have greater constraints because we believe it's in the community interest.

One of the things I would like to do in closing, if I may just take a couple of minutes, is to introduce Prof Martyn Webb, who is not an architect but has been very much involved in the architectural profession and in fact was the first person to study registered architects in the UK, and I'd like him to comment on the results of that.

**PROF SLOAN:** Could you come up to the table and could you also just tell us your name and affiliation for the purpose of the transcript.

**PROF WEBB:** Thank you, Warren. My full name is Martyn Jack Webb. I'm the emeritus professor and foundation professor of geography at the University of Western Australia. I have, I think, the unique attributes of being an honorary member, number 3, of the Institute of Architects; I am an honorary fellow of the Royal Australian Planning Institute; I am an honorary fellow of the Institute of Urban Studies; and I have for a very long time been concerned, in recent years of course as a layman, with architecture and with the architectural profession, with whom I have a very large number of friends. That's why I'm here.

As a result of having studied in the 1950s - the first time it was ever done - to look at really what happened and what lay behind the Architects Registration Act of the United Kingdom of 1928 and, above all, the career development of architects as persons within the profession - and since the study was done in 1951, 1952 and 1953 for the Architects Journal, which financed it, we were able to pick up a very large number of people who were architects before the registration act came in, so we had a very good chance to observe what happened when you did not have any control over the name and what happened afterwards and, of course, I don't have to tell anybody here who is in the profession: there was a dramatic change.

The way in which architects before 1928 got their architectural education or their qualifications was weird, to say the least, and I have the data, but I have only had a few days to look at your report so I won't dwell too much upon the details - because I had a good think over the weekend, and all the stuff is filed away - but my point being that we did have, before registration, precisely what you're talking about and I think some historical research would be worthwhile, to see really what did happen before they came in.

The second thing - and I think it's true of all the states; it's certainly true of Western Australia - is that our system of government is dominated, as you know, professor, by the executive arm and not the legislative arm and therefore, compared say with any state legislation in the United States, it is very difficult indeed to introduce legislation basically on the basis of a private bill, because all these boards and all these registration acts were essentially private acts and, unless you could convince the executive of their need, there was no way of having them tested in parliament. So your reference to the fact that these bills which were passed in the 30s and 40s into acts are the ones you are concentrating - was exactly what I felt on reading your report.

In view of the fact that I'm late - and I must apologise, but I discovered that you had changed your venue and I had to come from the other one to here - let me just say this. I read your report with considerable interest because it's the first time I have seen a report of this kind, and I reached exactly the opposite conclusion, and that's why I've come. My conclusion was really in two areas. First, your study seems to me - and convinced me completely that it is time that the states revised and modernised, harmonised and brought the principles behind these acts into current practice, particularly with regard to community responsibilities.

I have therefore, professor, very quickly, I must confess, and at some speed - I've only had this for a few hours - given an alternative set of recommendations. I will read them out, because I think everybody should hear what I've got to say, because what I've got to say has not been inspired by anything from the chapter but it's been inspired by my belief in what the profession does. Let me just read it out - and I will discuss these points I'm raising.

The commission, having found no verifiable evidence that the certification procedures do in general act contrary to the public interest and, from the point of view of maintaining and developing standards of practice, in fact operate to the community's benefit, recommend that the present state-controlled system of registration be continued, with the following provisos.

That is exactly the opposite to what you are trying to say. These are the four provisos. Now, remember these were done in haste and, given time, I could develop them fully. Number 1:

That the respective state laws be harmonised, with special reference to the deletion of any restrictive practice concerning the employment of architects, as for example in Queensland.

So I agree absolutely with whatever you said, and that was one of my objections to what was happening in England years ago. There were standard fees and so on. Number 2:

That community concerns relating to appeals and disputes between

architect and client be remedied by reconstituting the relevant registration board membership and amending the rules of procedure so as to incorporate client-community-architect -

because there are three involved, not just two now. Formerly it was client-architect. Now it's community-client-architect. And I agree - and I was asked, incidentally, by the Institute of Engineers, the Western Australian chapter, to write them a new code of ethics. That was done some years ago and it had its effect, because my feeling was there were two omissions. One was the broad environmental responsibility and the other one was the community responsibility beyond that that exists between engineer and client. Number 3:

That the Architects Accreditation Council of Australia and the Council of Australian Governments in particular -

there could be others, but "in particular" -

coordinate in this harmonising and modernising process.

Number 4:

That special attention be given to admitting those who claim that they -

because the point that's being made constantly in your report is that there are others who claim to have the same qualifications, there are others who claim to have the same experience, so I put 4, which is very important.

That special attention be given to admitting those who claim that they, in all but name, be considered as architects, with special reference to the equivalence of standards of output, community responsibilities and the basis of proven and certified portfolios of work over a period of years not less than that needed for full-time tertiary or other recognised formal training.

That formerly was one of the ways in which you became an architect. You presented a folio. I can remember that actually happening, and in many ways it's still done in architectural schools now, no doubt. The folio is a key element, but what a lot of people don't realise is that somebody who can draw a plan is not necessarily an architect. I know an awful lot of people who have been - not conned; that's the wrong word to use - misled - not deliberately, not maliciously, not feloniously - but have been misled into believing that somebody who can draw a plan is an architect.

For some 10 years I was an adviser to the Subiaco City Council planning committee and every single plan for approval came through my hands, along with two others, and the other two were - one was a town-planner and the other one was an architect. We spent hours on these and I can assure you, professor and doctor, that we could almost see what was happening. We had a clear-cut distinction between those that came from trained architects and those that didn't, and it seems to me the

burden of Prof Hegvold is: how can we distinguish? It seems to me you can only distinguish if the name describes the contents and therefore if you see that name, you know the contents. The evidence that I had from that long-ago study - but still I think it was relevant - was that unless you restricted the use of that name, there could be no assurance that the name would correspond to the contents.

When I went through this report here, I came to the conclusion - and Dr Byron was making this point - that many of your criticisms were not really to do with registration but were to do with the way that architects conducted themselves as a profession in the community. I do not think it's the duty of the Registration Board, like it is the Medical Board registering doctors, to go out and publicise the advantages of the profession. It's not their duty at all. Their duty is simply under the law to register persons who are entitled to be registered and, as I'm saying here, we've got to look at this question.

But in terms of, for example, the advice you were giving to Warren here, I couldn't agree more. However, to use that as an argument to deregister, in my opinion, is really confusing apples and pears. The issue with regard to information - and perhaps I might try when I get home, but I've already got a heavy writing commitment - I've gone through this because you make a great play of the question, professor - I remember you were saying - of lack of information. But to me that is a professional problem: that if you claim that what you do is superior to others, then you should proclaim it. However, as you know, until comparatively recently - well, let me go back one stage and you will see my logic.

Until recently nearly all professions were elite, and we're now moving into patron. In other words, who defined what an architect was? Architects defined it. Who defined what a doctor was? A doctor. A lawyer? A lawyer. What you are saying - and I agree with you because this is - - -

**PROF SLOAN:** And then you went to the government to try and get them to support your manoeuvre.

**PROF WEBB:** Well, let me just proceed. What we are now saying is that if you wish to use or become or be known as a professional and to make certain declarations - now, I agree. You've mentioned the accountants, you've mentioned the engineers - and that's a highly debatable area - - -

**PROF SLOAN:** And economists.

**PROF WEBB:** And economists - of course, yes.

**PROF SLOAN:** No statutory registration there.

**PROF WEBB:** Yes. One of my sort of various experiences has been to have lived and worked among economists in the department of economics for three years - a very interesting experience.

**PROF SLOAN:** I'm sure.

**PROF WEBB:** And I can assure you my view of the world changed quite dramatically. But going back, if you are trying to argue the case of information, then it seems to me the information is a matter for the profession and not for the boards, and therefore to criticise the system that we have on the basis of the deficiencies of the profession in my view is not a correct argument, but a great deal is made of this.

**PROF SLOAN:** So if the boards aren't there to provide information, if that's for the profession to do, then what is the role of the board?

**PROF WEBB:** The role of the board is to accredit. This is basically what Prof Hegvold is saying: that the use of the word "architect" in a sense, in inverted commas, because we know that all architects are not perfect - but in a sense it is saying quite directly that that person is accredited according to these known standards.

**PROF SLOAN:** But isn't that then information? What else is that?

**MR KERR:** I think the point that Martyn is making is that if you were going to raise a criticism that the boards are not waging a public relations campaign to say, "Use architects in preference" - he is just saying that the board, if it's there and is doing its job properly, then the actual institute or others can say that an architect has these skills and abilities, but you then have to have an independent measure for that, just as you may have a whole range of people in the community saying, "Better quality," and the quality movement is good but you only have a few organisations such as JAS-ANZ which actually come and assess quality within quality systems in offices and things of that nature. What he's putting up is that the boards act as that independent entity to justify those who have those qualifications and skills.

**PROF SLOAN:** It seems to me if no-one knows about it, it can't possibly be a benefit.

**MR KERR:** No, we are not disagreeing with the fact that there needs to be better publicity. I think the tenor of Martyn's address is that there are a number of improvements that can be made to the act to address the issues you raise, but just to say that because they haven't been amended for 30 years and therefore don't include those is not a valid reason to say, "Let's chuck out the baby with the bathwater."

**PROF SLOAN:** But Martyn is also telling us that the profession itself does a lot of these things very well.

**PROF WEBB:** I am saying, professor, that the issue is in two parts. One issue is accreditation standards, performance, practice, appeals, community relationships, and those to me are legislative matters, like the Planning Appeals Board - established by legislation that certain things "shall be observed" and certain persons "shall be



responsible" etcetera. Now, when it comes to the practice of architecture in the wider world, in my opinion - and I have to say I haven't looked at the act for some time but I find no reference to the fact, "Thou shall go out and breed architects, thou shall go out and advertise," etcetera. I would have thought that, like any professional organisation, that was the responsibility of the appropriate associations which are, of course, themselves divided really into at least two aspects.

The professor will be better at speaking than I am, but I have always understood that the Institute of Architects is concerned with three things - education, with a very powerful and very strong education arm, and, secondly, practice as a profession - that is, being members of that professional - and, thirdly, publicity. What I follow and I agree, reading this, is that the Institute of Architects in Australia has been very weak - not particularly strong - in the third role. But that is a matter for the architects. All you seem to be pointing out is, "Well, maybe having got this privilege of the use of the word 'architect' you haven't gone out and sold yourselves as well as you could."

**PROF SLOAN:** Yes. I know a lot about accountancy. They don't have statutory registration, but they do all those sorts of things, and the commerce faculties absolutely click their heels to what the Association of Accountants says. I mean, they absolutely dictate what is in the course, but there is no government backing to any of their registration arrangements.

**PROF WEBB:** Professor, let me comment, because - I didn't want to have to say this but I will now say it. I have had close relations with economists and the older accountancy - because I've been retired for 14 or so years - and I discovered the following: that they are now approaching the stage where they will need some public recognition. They have gone to the stage of internecine warfare between the chartered accountants and the certified practising accountants, and a lot of the publicity which they used was a part of the battle for supremacy between the groups. If you think back to the very expensive TV programs, which I'm sure many here will remember some years ago, it was more to advertise the fact there was a CPA than it was to advertise in general, generic terms, accountancy as such.

**PROF SLOAN:** I don't think we want to talk about accountants so much as to say that they do a lot - well, if you want to finish your point, because we have got to move on to our next speaker.

**PROF WEBB:** Well, what I want to - - -

**PROF SLOAN:** But the point is that they do all the things, including that - in fact, that competition for representation, which is healthy - - -

**PROF WEBB:** Yes, I am not disagreeing with you, except to explain why I've seen it happen, but to say that that does not justify your argument concerning accreditation. That is my point.

**PROF SLOAN:** But they do all the things that are currently done within the

architecture profession without access to statutory registration.

**MR KERR:** Can I make just one quick point in closing on that point?

**PROF SLOAN:** Yes.

**MR KERR:** The information we have received is that, as you're aware, under the current statutory regulations, architects in WA - and if we are registered in other states - pay a multiple of approximately \$100 to be registered. CPAs have advised us that they spent \$4 million on that campaign to actually get out and start letting people know about it, and if you ask anyone in this audience, or out on the street, what the difference between a CPA and a chartered accountant is, I'm sure many of them would still be confused.

I think we have a system that provides a very low-cost model for providing that. There are no costs to the community. The Architects Board in WA is completely self-funded by architects and it provides a basis which, as we have heard, is beneficial to overseas students, and recognised by overseas students. And in terms of our practice, because of that recognition, one of the problems I think you should investigate in your report is if you continue with the idea to repeal architects acts, you would then need to look at the plethora of various intergovernmental agreements.

We have already been contacted by the New Zealand Institute of Architects who have indicated that they see major problems with that, because if this goes ahead there, under the current arrangements anybody in Australia could call themselves an architect and would then have to be accepted - - -

**PROF SLOAN:** We have investigated that one.

**MR KERR:** - - - by New Zealand, could go into South-East Asia saying, "I'm of the same standard" so you would need to dismantle - - -

**PROF SLOAN:** We have investigated that, actually.

**MR KERR:** - - - quite a large system that's been in place for a number of years.

**PROF WEBB:** Could I just end on the second point I was making about accountants. I think the reality is that the perceptions of the accountancy profession, which is doing its very best to make itself more and more professional in its training and more and more accountable, the evidence that we have had over recent years leads me to the conclusion that accountancy quite possibly could be where architecture was some years ago, when eventually, in view of the community responsibility - when you think about what we're talking about, and the responsibilities that accountants now have to bear upon them through the Companies Act and all this other new legislation, I think it will be possible within the near future that the accountancy profession will in fact seek or have forced upon them the need for formal accreditation, in view of the enormous responsibilities which are coming

closer and

closer to architecture in its multifarious shows.

Now, that doesn't stop people keeping books, which is different. I am talking about the accountancy profession. I wouldn't be at all surprised if it's already being discussed among architects as to where their profession is going to go next. So I was trying to say, therefore - and we have been led off into accountancy, but it's a good example - that it's at that pre-accreditation stage, I think.

**PROF SLOAN:** Yes. That's one view. Okay, thanks, Martyn and thanks, Warren.

**MR KERR:** Could I just make one closing statement, and that is that one of the problems in architecture and building is that it's very easy to do poorly, it is very difficult to do extremely well, and I think that's one of the misconceptions. I mean, people see that a building gets built or something but they're not always aware of all the problems that then come thereafter. What we are trying to do is to raise the standards within our profession, or maintain them and heighten them, and we believe you have an enormous opportunity to actually look objectively at all those facts and to upgrade those acts so that in the future we can look and have an act which is not only responsible to the client and the person who is paying that, but also enhances the community in which we live.

**PROF SLOAN:** Thank you, Warren.

**MR KERR:** Thanks very much.

**PROF WEBB:** Thank you.

**PROF SLOAN:** Do we have Greg Howlett here? Greg, could you just tell us your name and your association. I understand we haven't got a written submission from you. You'd just like to make a - - -

**MR HOWLETT:** That's correct. My name is Greg Howlett. I'm a director of the Cox group of architects, which is one of the largest national firms. I'm a past president of the WA chapter of Royal Australian Institute of Architects, past chairman of the Council of Building Design Professions, the WA state government Research and Development Advisory Council and I'm on several other bodies that advise on matters of architecture in this state.

I will be relatively short because I'm assured that many of the points that I wish to make have been covered and, in particular, I have heard several of them myself. Unfortunately I haven't been able to attend all morning on the basis that I've recently returned from overseas, and in fact wrote this response overnight on the basis that much of my work now is based offshore now, as against Australia, and I firmly believe that that is where we are heading as a profession. I was pleased to note in your report that you understood that the globalisation of architecture is an issue that needs to be considered when reaching your conclusion.

I have written a statement which I guess I'll read. It covers a lot of the things fairly succinctly. I've read the draft report titled Review of Legislation Regulating the Architectural Profession together with the submission to the commission from the RAlA of 8 December 1999. I'm surprised at the commission's draft recommendation that state and territory architects acts under review be repealed after two years' notification period, as they have clearly identified that competition does exist not only between architects but they also compete with other providers in all aspects of service, which is a quote from your report.

Having passed the acid test that legislation does not restrict competition, I believe that the commission's responsibility is one of review of the legislation in relation to community welfare including economic, social and cultural impacts. While I'm in agreement that the various acts that exist across the country can be improved and simplified, the proposal to repeal the act is tantamount to throwing out the baby with the bathwater. The very existence of the profession in the current legislation is predominantly based on consumer protection enabling the public to differentiate architects from other service providers. The consumer is assured through the current legislation that when employing the services of an architect they are properly trained at an accredited university and have been registered, having completed a minimum of two years' practice and passed the Architect Board's examinations to satisfy their competency.

The draft report identifies that government may provide better information more efficiently; something that I agree with and that is the case with the current legislation. It is very easy to understand with whom you're dealing in a regulated market. However, the report claims that such intervention can create its own

inefficiencies

and/or have anticompetitive effects but the report subsequently finds that on the whole the anticompetitive costs of restrictions on the use of the title "architects" and its derivatives do not appear to be large.

So having established that, with one exception, all states and territories allow anyone to compete with architects, practice is not restricted and subsequently the anticompetitive costs as restrictions on the use of the title "architect" do not appear large. How can the commission come to the conclusion that they should repeal the act? To repeal the act would only serve to confuse the consumer and subject the industry to considerable cost in firstly informing current consumers of the changes and subsequently maintaining the knowledge in the market.

Furthermore, I do not support the commission's view that legislation would provide negligible consumer protection compared with general building and planning laws which essentially establish the minimum standards on a short-term solution. This ignores the fact that architects are trained to consider life-cycle costing issues, the impact of design on adjoining owners and the effect on the overall built environment. To implement the draft recommendation, I would believe, would evidence the commission's failure to consider the long-term social and cultural effect of change.

Repealing the Architects Act would, in my view, only serve to further dilute the quality of service and subsequently reduce the quality of our overall built environment. For an uneducated consumer competition would inevitably become fee based as against quality based, which has been proven by the CSIRO to result in the reduction in the quality of service provided, greater use of junior and inexperienced staff, insufficient personnel to carry out the work, causing an overload on those available, lack of profit that leads directly to a reduction in the level of in-house training, research and development. That comes straight out of the CSIRO report, which I understand you have a copy of.

The CSIRO has also completed a report on the globalisation of the construction industry, where it is predicted over the next 10 to 15 years all major works will be completed by multinational contractors who will aim to work with similar consultants. The commission's proposal to deregulate the profession I believe is counter to that in other countries where not only the profession is regulated but also in many instances licensed to provide services. It is also counter to proposals by the UIA, who are adopting an accord on recommended international standards of professionalism in architectural practice.

I believe deregulating the profession has the potential to put at jeopardy the export of professional services, which are currently estimated to equate to 22 per cent of the Australian architectural business and is increasing. I think Warren Kerr indicated that his firm was closer to 30 per cent and certainly that is the case in mine, with my practice, where we aim within a few years to have 50 per cent of our work being done in Australia for export offshore.



The Royal Australian Institute of Architects has put forward a number of

proposed amendments to the current legislation that I believe would promote consistency between regulatory regimes and avoid unnecessary duplication and would serve to enhance transparency and accountability. Should the RAIA be empowered to register and regulate architects, the abolition of the boards and the resulting 100 per cent membership of the peak industry body would result in considerable efficiencies and reduce the cost to industry. I endorse this approach as a more suitable response to the National Competition Policy.

I won't go into all the ideas that the institute has put forward but briefly, for those here that haven't read it, it's to do with such things as mandatory continuing professional development, mandatory professional indemnity insurance and a core code of conducts and associated disciplinary procedure. That's basically the comment that I wish to make.

**PROF SLOAN:** Can I just clear up your punch line, as it were. You're advocating a form of co-regulation run by the RAIA?

**MR HOWLETT:** I think it gets to some of those ideas that were talked about by Martyn late in the piece, where the institute hasn't been brilliant at marketing the profession. My view of the world is - and I guess a lot of my board members here who are my colleagues might have a slightly different view of the world but my belief is that if in fact the Royal Australian Institute of Architects was charged with regulation of the profession that would result in 100 per cent membership, as is the case of the board - all architects are registered by the board - and therefore the cost to the institute of providing the service as they do would be diluted. Our membership would double and the money that is there would be available to educate the public on the services of the profession.

**PROF SLOAN:** And you would abolish the boards?

**MR HOWLETT:** Yes.

**DR BYRON:** You're talking mandatory membership of the institute rather than voluntary?

**MR HOWLETT:** No, I'm saying if you maintain legislation - that you don't repeal the act, that you maintain legislation of architects and the word "architecture", its derivatives - and that the regulation is with the institute to maintain, that that would be a more efficient way of achieving - it certainly will reduce cost to the industry.

**PROF SLOAN:** Do you agree with the proposition that in terms of - I'd be the first to concede that economists view things in certain ways - that if we think about this as there being information asymmetry, so the provider knows a whole lot more than the consumer - that the current acts do a relatively poor job at bridging - - -

**MR HOWLETT:** The act essentially is subject to modification, or should be modified, and I think everyone here is in agreement with that.

**PROF SLOAN:** Right.

**MR HOWLETT:** They've been endeavouring to modify it for many years and I don't think it's through lack of effort from the profession that it hasn't changed; it's generally at government level that it gets stalled. So I think we're all in agreement that the act needs to be improved but deregulation or repealing the act is, as Warren used the term and I use the term myself, throwing out the baby with the bathwater.

**DR BYRON:** Can I just follow that one up? One of the things that we really have to grapple with is the rationale for government involvement; why it's essential that the government must do this, rather than some organisation. I think it might be worth just exploring for a minute. If the state acts were repealed this is not equal to deregulation. Quite a few people this morning have said "deregulation". All people who design and procure buildings would still be subject to all the other regulation. We're not talking about an absence of regulation. There would still be all the other stuff. There's a certain redundancy there.

People seem to say if the state acts were repealed and therefore there was no longer reservation of title, then anybody could call themselves an architect, irrespective of competence or experience or reputation or anything else, and that's the end of the story. I guess the possibility that we're considering is that those who have skills, expertise, and are proud of it and want to market it, would immediately set up some sort of differentiating mechanism to inform prospective clients that they really do have outstanding skills and expertise. Those who thought it was worthwhile to differentiate themselves from Tom Smith down the road, who doesn't have any skills or expertise, would therefore want to do that. So the first round, if you like, is not the end of the story.

There would be a whole series of subsequent voluntary measures that would provide differentiation, that would inform the public, that would provide consumer awareness and all the rest of it and would be set in place. But because they are not legislated they're not something that we have to instruct state or Commonwealth governments to undertake. They would be, if you like, spontaneous moves by those who are directly involved to inform their clients of their existence, their skills and expertise.

**MR HOWLETT:** Your own report says that governments are efficient and cost-effective in delivering that information. I think the fact that if you have a legislation that says - here it is, "Government may provide better information more efficiently."

**PROF SLOAN:** May.

**MR HOWLETT:** Essentially what that's saying is that through legislation in shorthand you're saying these people, architects, are properly accredited, trained, et cetera. It's very simple. Legislation that says it protects the words "architect" and

"architecture" is a shorthand way of getting that message to the public.

**DR BYRON:** It's a shorthand way of saying, "These people once met minimum standards for accreditation and to be placed on the register." There is no implicit or explicit endorsement of their - - -

**PROF SLOAN:** Anything they do.

**DR BYRON:** Of their excellence, their quality, their experience, their currency or recency.

**MR HOWLETT:** It said they met a standard at the time of doing their exam and I'm not suggesting that it should say that in fact with the - supporting the view of the Institute of Architects that - sure, that interpretation is as the act currently stands but there should be some form of continuing professional development and such other things. Indeed, New South Wales and Western Australia have both passed, recently, professional standards bills which in fact address those very issues where they are saying, "All right, there is a need for the professions to become more proactive," in making it mandatory and there's - to continue professional development and also such things as professional indemnity insurance. Perhaps one of the benefits of that is a reduction in their liability or the period for which they are liable for their work.

Certainly I would support a change to the legislation or to the regulatory body to ensure that that sort of activity did take place but certainly not the removal of the legislation that protects architects and architecture.

**DR BYRON:** If the state acts were repealed, and hence the reservation of title, and then the next day I was to hang up my shingle with no qualifications, no experience and no portfolio, whatever, if there was a requirement for professional indemnity insurance I wouldn't be able to practise because no insurer in his right mind would give me insurance, would they? In fact the insurance market itself would do a very good job of excluding anybody who didn't have high-standard qualifications, experience, expertise.

**MR HOWLETT:** But that may or may not be the case. I'm not aware of the vagaries of the insurance industry. I know a lot of owner-builders who go out and build their own house. They seem to be able to get insurance to do that work. I don't suppose - I'm sure the market would accommodate those people. I don't necessarily believe that the industry, the insurance industry would be a regulatory body in that respect.

**PROF SLOAN:** I suppose one of the themes of our report - of course, I should probably give this class a lecture in what "cost" means to an economist, which seems to be completely at odds with the architect's view of costs. But, anyway, people do things because the benefits are greater than the costs, so it actually is a net benefit. Anyway, we'll leave that aside.

The point we're making is that this is an input model, and a pretty poor one at that. Someone who has graduated in 1956, registered in 1958, looks exactly the same as someone who did that three years ago. It gives no more information than that. But the kinds of problems that are perceived in this industry are not necessarily properly addressed through input measures anyhow, because there are sort of output problems there - you know, a poor contribution to the quality of the built environment, poor occupational health and safety, etcetera. It is what an economist would call a very poor match between target and instrument.

We have to give a lot of consideration to that. A lot of the arguments that are brought up in the submissions are not a good justification for keeping the architects acts going at all - therefore tightly targeted instruments to address those particular problems - because I'm sure you'd agree that there are plenty of registered architects who are capable of doing quite bad work.

**MR HOWLETT:** I'd never agree to that.

**PROF SLOAN:** So every registered architect in Western Australia does outstanding work?

**MR HOWLETT:** I don't think you could say that either. What I'm saying is that - - -

**PROF SLOAN:** And all non-registered providers do bad work?

**MR HOWLETT:** No, you can't say that either, but the reality is that to go to a qualified architect that you are better protected, I believe, and you're certainly getting somebody who is properly education in design as well as the technical side of delivering a project. I think the value adding of an architect in my view is unquestioned as against other providers of services which are essentially drafting people and others.

**PROF SLOAN:** So if the consumer is unhappy with the services provided by a registered architect can they seek proper remedial action through the board, in your opinion?

**MR HOWLETT:** They can complain to the board. They can make representation to the Institute of Architects and they can make representation to other industry bodies through the Building Registration Board as well.

**PROF SLOAN:** Yes. Do you think they get appropriate remedial action from the board?

**MR HOWLETT:** I believe the board responds to all complaints that are made to them, yes.

**PROF SLOAN:** Right. But it doesn't happen independently - disciplinary panel?

You can't order restitution?

**MR HOWLETT:** I'm not familiar precisely with the operations and the mandate of the board, but certainly they do have a system of reprimand of members.

**PROF SLOAN:** I just think if you're going to think of it as a consumer protection agency you might expect consumer protection kind of mechanisms to be more fully developed.

**MR HOWLETT:** I'm not suggesting that the current legislation in any way is perfect. In fact, I think it's a long way from perfect. But I do support, I think, where the consumer is protected is in fact by maintaining the title "architect" for those appropriately qualified and registered.

**PROF SLOAN:** Did you want to ask something? All right, we must move on because we're going to run out of time. Thank you very much.

**MR HOWLETT:** Thank you very much.

**PROF SLOAN:** I now call on Anthony Brand. If you could state your name and affiliation, thank you very much.

**MR BRAND:** Yes, Tony Brand is my name. I've been practising architecture for about 45 years. I can give you a full CV of about 10 pages if you wish to substantiate my experiences, but I think the positions I hold will come out when I address you. I have rather a lot to say. First of all, I don't have to be here. I don't have to say anything. I'm at the end of my career. I will not personally benefit in any way or the other. I therefore can be impartial. But I'm not. I'm well past retiring age and whether I am regulated or not does not affect me in any way. In fact, it will save my Architects Board fees. Therefore I believe I can speak without any self-interest or benefits. My concern is one of purely ensuring that the public does not continue - and I repeat continue - to be deceived or misled.

I said I was not impartial and I'm not. I'm approaching this from a different point of view. I'm concerned for the public, the very public that is now suffering more than ever before or since another government body under the Fair Trading Act thought that by deleting a minimum scale of fees there would be fair competition. Never have they been so wrong. The public have suffered. They either pay fees to untrained designers who just underline or underscore architect's fees, or alternatively, because architects have had to considerably reduce their fees to compete with these kitchen table type designers, then in order to survive the architects have been forced to cut down the standard of their work: the number of drawings, the number of details, and the number of times that they visit a site. The public therefore suffer.

This is going on all the time and, as a dispute resolver, I've been involved in a number of cases where these issues have arisen. In the last five or six years I've become a graded arbitrator and an accredited mediator in the field of dispute resolution. This is where I'm coming from. I'm a member of the State Planning Tribunal and a member of the Minister's Planning Appeals Committee. In addition, I've acted as an expert witness or investigator into a number of disputes arising from the building construction industry. At the moment dispute resolutions occupy about 70 per cent of my time.

I advise you of my latter experiences in particular because of the concerns I have with poor designing, poor planning, poor constructional detail, lack of construction understanding and particularly lack of administration of projects which continually come to my notice during my dispute resolution work. The great majority of the appeals and disputes between two parties occurs because of the incredibly low standard of building design and planning and documentation from so-called designers of distinctive homes - unqualified designers, inexperienced drafting firms and so on.

I'm not saying there are not problems with young and inexperienced architects - there are - but very few, and I repeat very few compared to the problems which occur from inexperienced or untrained non-architects involved with architectural construction and its documentation. You would not believe the number of appellants

who thought they were dealing with architects. You would not believe the number of disputes that arise because of totally inadequate drawings, totally inadequate specifications, invariably not related to the project. But above all, the number of plans of buildings which just do not comply with either the building codes or local authority planning requirements and which result in totally unnecessary appeals. The public pay.

The vast majority of these are submitted by building designers or drafting firms. Remember, and I think the report said this, only five per cent - you said 25, but I believe five per cent to 10 per cent of residential work is carried out by architects. I'm not prepared to give you factual evidence at this open forum, but if necessary I can give evidence in private of many cases where non-architects have been involved with these issues and regrettably, unnecessarily so for the appellants. If I have time I can mention two such cases to reinforce it.

I've heard, commissioners, that this hearing may be a farce. I've heard that it doesn't really matter what architects or anyone else submits to your review committee, and it doesn't matter as to what is said at this hearing; that in fact you have already made up your minds to proceed with deregulating architects. Some of what I've heard today reinforces that. Indeed, when I read your incredibly thick document on the review I could not help feel that what I was reading was a somewhat obtuse piece of bureaucratic pedagogue. You had already made up your minds.

I would hope that you will deny that this hearing is a farce and that you will listen to the architects and to the other submissions, most of which, when reading your review, it appears you have taken no notice of whatsoever. If not, then I suggest that this is not only an academic exercise, but hypocrisy. Common sense and history suggest you will not be changing the main thrust of your report. You have already ignored the architects' views and included your own. It seems that your commission has set out from the beginning to deregulate architects and what you are trying to do is obtain and record that information which supports your case. Professor Martyn Webb alluded to that.

What I have read makes little sense and is full of unsubstantiated padding. You have indicated little justifiable reason, little evidence for you to increase the status of untrained people who have arisen through the ranks as designers and draftsmen without anywhere near the training required, or experience provided by an architect. We need assurance from you today that you will listen to us, and you will take note of our pleadings. Otherwise you'll be wasting all of our time. You'll be wasting public moneys, you will be building more bureaucratic empires and the very public you are allegedly trying to protect will be further inconvenienced and further hoodwinked.

Many people calling themselves designers have either arisen from the ranks of architectural students or, just through spending time on drawing boards and gaining experience with project builders or the like. In many cases they are failed architects, because they could not meet the standards required to become a qualified architect.



They are untrained, unqualified and generally totally inexperienced with background

training of the various services, structures and contract requirements required to meet today's needs. You are expecting or permitting the public to accept them as architects.

This is not to say that there may be - and indeed I know one or two - designers who are not capable of designing attractive looking buildings, but you only have to look at the proliferation of badly planned or designed houses in the newspapers to see that many of these plans have not had the required thinking or planning related to how people live in a house. If designers are permitted to call themselves architects, then it would be human nature for them to increase their fees, an extra cost to the public. The reason architects' fees are higher than designers or draftsmen is because they have a background of five years' minimum training - you've heard all this before I know - at a university, plus a further two years of professional practice before they can call themselves an architect.

This training allows them to be fully aware of the intricacies of services, materials, construction, contracts, etcetera, to safeguard and protect the public. I know I'm generalising here. As a result they put in far more time, provide far more detail and information on their documents, as well as expertise in their services. This is rarely available, at all, if at all from designers or draftsmen. I could, if necessary, go back over appeal after appeal - and I'm prepared to give you some examples in private - or dispute after dispute arising from poor planning which is just not acceptable to local authorities, or misleading and undeveloped documentation incurring enormous extra costs from builders during and at the end of construction because items have been omitted, in the main, through sheer lack of understanding, experience or competency.

You are proposing to let the public be fooled into thinking these non-architects are architects and possibly - and that's a word I picked up a lot in the report - possibly be therefore subject to extra fees. In other countries, particularly in Europe and Germany, where they have hundreds of years of experience with the building industry, they have developed laws to protect the qualified architect. But, moreover, laws to ensure that people have to use an architect for most commercial constructions and many large-scale jobs that fall into certain price ranges.

They know the value of protection to the public by using architects. They know that buildings will be constructed more soundly. They know there will be no short cuts or savings of architectural input because of cutthroat competition and because they have the protection of the architect's training and experience to ensure a good standard of construction and proper planning for a reasonable price. Again, I know I'm generalising. In other words, cost efficiency or value is what they get.

You yourselves have admitted that architects are not amongst the high income group. The deregulation of architects will put all building designers, documenters on the same level. As far as the public is concerned they will no longer have choice of competency, because regrettably they will all think architect and designers and draftsmen all do the same thing. In fact they do now, in most cases. You've made

that point and I don't disagree with that. It's probably a little like the average person not knowing the difference between a bookkeeper and an accountant, or perhaps even an accountant and an economist. Imagine calling all economists bookkeepers, or all bookkeepers economists. Perhaps again not unlike the average person thinking there is no difference between a university tutor or a lecturer or even a professor. Imagine if professors were deregulated and anyone that teaches could call themselves a professor. Where would this lead to?

There is a difference in the level of training and this has to be acknowledged. Competence between a bookkeeper and an economist, and a lecturer and professor - these level differences must be maintained in the public eye so that when they wish to have access to these people, or even to as to a pharmacist compared to a doctor, they have a choice of level of competency and they know as to what level they are dealing with. That's the main thrust of my report - is choice.

I know you're running short of time. I've got about eight or nine paragraphs from your report which - if there is time - I'll speak about later. But just let me make a few more miscellaneous comments as a result of reading your report. The words "may", "appears", "potential", "can however", "possibly," continuously appear. Nothing factual, nothing definite. There is no evidence. Where is your evidence? Most of your comments appear to be supposition. Most of your innuendo is applied against architects. You appear to have ignored the fact that the same criticism could apply equally to, if not more so, building designers and draftsmen who are untrained. Your reference to costs or extra costs for the consumer are almost apologetic.

**PROF SLOAN:** Can I just make the point, though, that it goes back to the onus of proof. The onus of proof is actually on the groups who seek to retain these acts. That was quite an appropriate way to approach the discussion. It's actually up to those who seek to retain the acts to provide evidence that the benefits are greater than the costs. And dare I say it, most of the submissions don't address that issue at all.

**MR BRAND:** May I say that your interpretation of many of the comments made by architects is with a view to substantiating that decision to deregulate. A lot of the information in here has nothing whatsoever to do with deregulation or with the title of architect.

**PROF SLOAN:** We're not using the word "deregulation" because that's not actually what would happen.

**MR BRAND:** All right, deregister or whatever. I understood it was deregulation.

**PROF SLOAN:** Repeal of the acts, but there are absolutely boggins of regulation covering the building industry.

**MR BRAND:** But nevertheless there have been no definite statements by you. There have been no calculations, no evidence to you to suggest that it should be otherwise. Anyway, I'll continue. I can't find anywhere, as I said, any itemised list of

alleged costs. You've got to pore through. There is a small section of one and a half pages, number 8.2 on costs. As I said, it's very apologetic. It really is. Have a look at it.

**PROF SLOAN:** I don't think "apologetic" is quite the right adjective.

**MR BRAND:** All right. You're struggling with it, then.

**PROF SLOAN:** I mean, we admit that the costs are low - - -

**MR BRAND:** Right.

**PROF SLOAN:** - - - but the benefits look as though they're zero.

**MR BRAND:** Okay. But you also miss the point that a continuous reference to cost - - -

**PROF SLOAN:** Which is an important point.

**MR BRAND:** - - - and one that's related is this information deficiencies - would equally apply to building designers and draftsmen if they were then called architects. And you seem to forget that a lot of your criticisms - a lot of your criticisms of architects would apply equally to if not more so to building designers and draftsmen.

**PROF SLOAN:** But they're not regulated.

**MR BRAND:** But you don't acknowledge this. Your chapter 5 is headed "Potential Benefits of Current Regulation", not Benefits of the Current Regulation. I mean, that's somewhat demeaning. You have obviously made up your mind - and when you read through this you can't help but feel it - you've made up your mind and you are turning a lot of the things that have been said towards supporting your decision. And I can't help but feel this.

**PROF SLOAN:** In fact we use that term for the exact reverse, to try and think of as many benefits as we can.

**MR BRAND:** Prof Martyn Webb also alluded to that, too. And he's a far more intelligent person than I am, and if he alluded to it and he did it very nicely, I understand that. But let me also say that in discussing it with others that is the general feeling.

**PROF SLOAN:** That's an important point because - - -

**MR BRAND:** You have forgotten that time and time again - - -

**PROF SLOAN:** Can I just remind you of the history? If we just went to the history

of these acts they came into being at the behest of the profession for the benefit of the profession. We were therefore trying to, in a sense, infer what might be other benefits, because if we only could conclude that the benefits of these acts are captured by the profession then in fact there's absolutely no argument at all for continuing them. We have to establish that there are social benefits beyond those being captured by the architects themselves.

**MR BRAND:** Again, I have read your report, read it twice, and I'm not sure you have. And you forget, as I've said, that time and time again when you criticise architects and their activities that in fact such criticism - as I've said and I repeat - will apply more so to - - -

**DR BYRON:** Can you give me an example? Because I'm not aware of any instance - - -

**PROF SLOAN:** No.

**DR BYRON:** - - - where we've criticised architects or their activities.

**MR BRAND:** All right. I'm happy to go back and go right through, but criticism isn't - see, you've already jumped to the conclusion that it's a nasty criticism. There are some that aren't acceptable and there are some the other way.

**DR BYRON:** I'm sorry.

**MR BRAND:** But criticism is criticism. You've jumped to a conclusion.

**DR BYRON:** As I said at the beginning, architecture or those who practise it is not the subject of an inquiry.

**PROF SLOAN:** No.

**DR BYRON:** What we're looking at is the system of regulation, and that is what we're - - -

**MR BRAND:** But you haven't proven that deregulating is going to make things any better. What you should be doing is looking at where there may be faults and trying to improve them.

**PROF SLOAN:** I think we have - - -

**MR BRAND:** And by just so flatly making the statement, as you have here - wherever it is -

The commission recommends the state and territory architects acts under review be repealed after a two-year notification period -

which means repealed or deregulated. Right?

**PROF SLOAN:** We're not deregulated.

**MR BRAND:** Okay.

**PROF SLOAN:** But I mean that comes after a very long line of argumentation - - -

**MR BRAND:** Yes.

**PROF SLOAN:** - - - which leads to this recommendation.

**MR BRAND:** But also let me say that a lot of the things that you state in regard to non-architects - and it seems to me that you use a lot of their comments to substantiate your point of view - and bearing in mind that they have probably even more vested interests to be called architects than architects trying to retain the act and improving it - and you at times have forgotten that the public requires protection. And by calling everyone architects and allowing building designers to occur - and this is the point I tried to make earlier - by allowing that to happen you are not protecting them. You are exacerbating the situation, you're making it worse for them. Let me assure you - I sit on these; I have 50 appeals a year.

**PROF SLOAN:** Can I read something out to you which is from a registered architect and he said:

In my experience as an arbitrator and mediator in building disputes, I have to read contract documentation prepared by architects as well as by others such as ..... I have found that it does not follow that if the author is an architect then the documentation will necessarily be superior.

**MR BRAND:** Sorry, who said that?

**PROF SLOAN:** David Standon, registered architect.

**MR BRAND:** So?

**PROF SLOAN:** You know, I think you're trying to draw a long bow.

**MR BRAND:** I don't think Prof Standon has had as much experience in the outside world as I have. He's also from the academic world.

**PROF SLOAN:**

And I have learned that exactly the same duty of care is expected by law of both architects and non-architects.

**MR BRAND:** Okay.

**PROF SLOAN:** So it goes back to the point of what consumer protection - - -

**MR BRAND:** Right. That's his experience, okay?

**PROF SLOAN:** Yes, that's right.

**MR BRAND:** That's not mine, and I'm here - - -

**PROF SLOAN:** But if you're talking about input into the inquiry - - -

**MR BRAND:** I'm not here to hear what Prof Standon said. That's for you.

**PROF SLOAN:** Yes.

**MR BRAND:** And you've got to evaluate what he says - - -

**PROF SLOAN:** Yes.

**MR BRAND:** - - - as against what I'm saying.

**PROF SLOAN:** Yes.

**MR BRAND:** So I don't think you should be using what Prof Standon says against me.

**PROF SLOAN:** No. You obviously don't agree with what he says.

**MR BRAND:** While we're talking about Prof Standon or the schools of architecture I think Prof Martyn again alluded to the fact that there may be serious effects on the schools of architecture or similar teaching establishments within the universities - and in fact I think it was Warren Kerr who said that the number doing the professional practice exams have dropped from 25 to 4. The same thing - the flow-on effect in the schools of architecture could also be enormous because if everyone can call themselves an architect then why and go spend five years of training and two years of professional practice? Why go there and learn? Why? You don't have to.

**DR BYRON:** Because one would then acquire the skills and expertise which are in demand in the marketplace - - -

**MR BRAND:** Yes, but the great majority - - -

**DR BYRON:** - - - and if you don't do it you won't get them.

**MR BRAND:** - - - of designers and draftsmen out there who are going to call themselves architects have not done it and have no intention of doing it.



**PROF SLOAN:** I would find that extraordinary, to think that's the number, and I'd like to get some evidence.

**MR BRAND:** The point is this, that you will be then putting a lot of people who want to be an architect, want to create buildings and design buildings, who are untrained - you're allowing them then to go out in the world and benefit from any mistakes they make, as they do now. The public will suffer. And that's what your main interest is in this, the public; and that's what my main interest is here. As I said to you earlier, I don't have to worry any more, but I am concerned and I see it day after day, and the public do suffer. And that's what your main interest should be.

**DR BYRON:** Yes.

**MR BRAND:** Not a matter of whether you deregulate or regulate or anything else.

**DR BYRON:** Exactly.

**MR BRAND:** Again, as I said, with regard to alleged costs you often state "They're not large" or words like "Probably some increase". It really is very indefinite what you have to say. Nowhere do I see an emphatic statements about costs. Here again you allege you're interested in the costs to the public. I don't believe in your report that anywhere you really have come up with anything that suggests there is a cost to the public, whether it be financial or otherwise. The most important thing that you have to consider is that the public has to have choice, and if you decide that draftsmen, building designers or whoever they may be - and architects - can all be called architects it's going to become more confusing, far more confusing for the public, because they won't know what levels.

At the moment at least they know that if they want to go to a draftsman they can go to a draftsman and pay so much; or if they want to go to a building designer they know that the building designer will have a range of fees; or go to an architect. But at least they are fully aware of the levels of competency. That doesn't mean to say there aren't some good building designers; there are. And that doesn't mean to say there aren't some poor architects; there are. But by and large and in general we're looking at the great majority and that's what we're talking about.

Another point. Your report does little to differentiate between commercial work and residential. It does differ, but little. I'm led to believe that about 50 per cent of the construction industry is commercial and 50 per cent housing. Might be 40,60 one way or the other; it varies. If you accept that only five or 10 per cent of residential work is done by architects then this results in architects' residential work amounting to between two and a half per cent and five per cent of the total building industry. Right? A very small proportion of the building industry is done by architects in terms of residential work.

Your report centres around the residential. It uses it all the time. Have you got

your priorities right when your findings are looking at perhaps a maximum of five per cent architectural work? I think you should look at that area, which I don't believe you spent enough time on. I believe for that reason your case is weak, very weak, and I think you know it.

**DR BYRON:** The reason for concentrating on the residential area is because the argument that we were given for the - - -

**PROF SLOAN:** By the architects.

**DR BYRON:** By everybody - for the existence of the acts is that it's to protect the poor and the ill-informed consumer, the Mr and Mrs Smith in the suburbs, for whom the decision to hire an architect as opposed to somebody else - it's very important; they're naive, it's the first time in their life, etcetera. If AMP or Lend Lease is putting up a \$500,000,000 building everybody has told us they are big enough and ugly enough to take the responsibility for whomever they choose to hire as their architect, or somebody else if they don't hire an architect. The whole reason that we have been given by everybody for the existence of the State Registration Acts is not to protect BHP and Lend Lease or AMP but to protect the small residential ill-informed Mr and Mrs Smith in the suburbs, and that's the reason that we concentrate on that.

**MR BRAND:** I have no argument with that. I have no argument with that, but you should be directing your report and your energies to resolving that particular issue. And just by throwing out the act or calling everyone architects is not going to resolve it. You've got to look at what particularly resolves that issue, that small two and a half to five per cent, and you haven't done it. I don't believe you've considered your report in a balanced way.

**DR BYRON:** We have considered it in a very balanced way, and I'm beginning to resent your tone.

**MR BRAND:** Okay.

**DR BYRON:** I would like you to treat this - this is a tribunal.

**MR BRAND:** You've been allowed to say things - - -

**DR BYRON:** Excuse me. This is a tribunal equivalent to a court of law.

**MR BRAND:** Okay.

**DR BYRON:** And if you were to behave in that way in any other court or tribunal I don't think you would get the hearing that we have given you. So I would ask - - -

**MR BRAND:** Please tell me where I have gone overboard.

**PROF SLOAN:** Maybe if you could bring your presentation to an end, that would

be helpful.

**MR BRAND:** No, I've got three or four minutes more, if you let me go uninterrupted. For example, when you say "Not all in the community would agree with architects' views" of course you're right. I agree with that. But then may I say less in the community would necessarily agree with the views of building designers or draftsmen. So why have you put it in? The comment, as I believe with so many of your unsupported critical views of architects, is entirely irrelevant to the question of deregulation and title, and that's what I believe this is all about. I may be wrong but that's what, reading the report, I believe it's all about. And furthermore, that comment has nothing whatsoever to do with being a reason for increasing costs as suggested by you.

I've got eight or nine others like that. My remarks, as I said earlier, are on a general basis. There's no question there are a few architects who get into trouble through inexperience or incompetence. There are many unique and outstanding architects, as there are designers who have benefited from some early training. But it stands that in the main untrained designers in the industry, without the myriad background educational subjects such as technology, structures, mechanical and so forth - you've heard them all before - just cannot compete with a trained architect. You're trying to tell the public that these designers, draftsmen can be called architects. It is you who I think are being unfair to the public. You've got to allow them to know the difference in levels.

If you deregister the Architects Board then you will immediately lose the only power that we have with any teeth to discipline members of the profession. There certainly will be no equivalent organisation to discipline or ensure a level of reasonable competence amongst designers and draftsmen.

**PROF SLOAN:** I don't think that's true. That certainly is not true.

**MR BRAND:** The RAI does not involve all registered architects as members and furthermore, it has no statutory powers. It has no teeth to discipline members. If it does the member can just resign and so what. If an architect comes up for discipline against the board then there are disciplinary measures, and if they decide that they have to get rid of him then he cannot call himself an architect.

**PROF SLOAN:** A very rare occurrence.

**MR BRAND:** But at least they have some statutory powers. But this still doesn't prevent other government organisers or fair-trading people to come in and act. It doesn't prevent it. I really wonder, though, whether in all this that you are really considering the public. As I've said before, you've got to maintain choice and different levels of competency so that people know exactly where they're doing for whatever they pay. That is the most important issue here today.

**PROF SLOAN:** I would suggest we bring it to an end, actually, because I agree

with Neil in the sense that this report does make no normative views about architects and the role of architects. That is not our job.

**MR BRAND:** Well - - -

**PROF SLOAN:** And therefore for you to impugn our role I think is actually quite offensive.

**MR BRAND:** Well, that is my interpretation - - -

**PROF SLOAN:** We have done the - all right - - -

**MR BRAND:** - - - after reading it twice.

**PROF SLOAN:** All right, but - well, I think Neil would agree with me - I take offence - - -

**MR BRAND:** Well - - -

**PROF SLOAN:** - - - and that we have undertaken to do this review in terms of the terms of reference sent to us by the Treasurer - and, let me repeat the onus of proof is on those who wish to retain these kinds of pieces of legislation.

**MR BRAND:** All right. Well, I will cut out the last part, because obviously you have - - -

**PROF SLOAN:** That would be a good idea.

**MR BRAND:** I thought this was a public forum.

**PROF SLOAN:** It is.

**MR BRAND:** I just want to say one final thing. Why not keep it simple? Just address your valid concerns within the present act. Why not just improve the act to cover those concerns, but give the public choice? Okay.

**PROF SLOAN:** Thank you very much.

**MR BRAND:** Thank you. Could it be recorded that I wasn't encouraged to finish what I had to say, please?

**PROF SLOAN:** That will be recorded then.

**MR BRAND:** Thank you.

**PROF SLOAN:** I now call on Sasha Ivanovich. If you could state your name and affiliation, that would be most appreciated.

**MR IVANOVICH:** My name is Sasha Ivanovich. I'm an architect. I'm also a member of the Architects Board for the state of Western Australia. I have probably - - -

**PROF SLOAN:** We have got, I'd say, quarter of an hour. Is that all right?

**MR IVANOVICH:** Sure. I must say that I know now that I'm not the only one who has been shocked by the level of argument that I find in these documents, and I have been trying to find out why you've done this, and I think one proposal which has been put is that perhaps you have already made up your mind. I can't say whether you have or not, but what I want to do here is - I hope I'm not going over old ground that other people have already stated, but it seems to me that you have been looking at this whole issue from your angle, which does not exhibit, as far as I'm concerned, a lot of understanding of what is going on in the profession.

**PROF SLOAN:** Can I interrupt there?

**MR IVANOVICH:** Yes.

**PROF SLOAN:** It is very important that you understand the terms of reference, and the fact that this review is under the national competition policy, and under the competition policy agreement - - -

**MR IVANOVICH:** All right, well, we are talking about competition - - -

**PROF SLOAN:** You have to understand that the onus of proof is on those who wish to keep restrictive pieces of legislation like the Architects Acts. That is why the report is structured the way it is. It is not designed to give offence, and it gives more offence for people to accuse us of doing that.

**MR IVANOVICH:** Well, the offence is that it is a real insult to one's intelligence, if we look at items like - mentioning as an example of why one doesn't have to go to university - "Look at Frank Lloyd Wright. He has done it." How can one give this kind of an example, which is unique in itself? I mean, you're not going to get everybody who just walks off the street and goes and does some work on a building site to become a Frank Lloyd Wright, so I do not understand how you can use this kind of example.

**PROF SLOAN:** I am not recommending that or suggesting that at all.

**MR IVANOVICH:** Well, it is, because you have certain evocative statements which seem to represent arguments that you put, and I don't believe that you have properly defended the issues which you have presented.

**PROF SLOAN:** Well, perhaps if you could go through that in a substantive way, that would help us.

**MR IVANOVICH:** Well, the substantive way - in the example of saying that a person - you have here, one statement you made, was that a person - you quoted someone who said that - and I don't know who it is, but somebody obviously who put a report here - that a person who is necessarily - I'm just going to quote it in a kind of verbatim way - a person who has gone to university, done a lot of courses, is not necessarily better qualified than a person who has a lot of experience and studied nothing. I can't understand how you can make these kind of statements in a document which is supposed to deal with real issues. It is a very generalised statement. It does not really give us any specific examples of what you are trying to say, and I find that a lot of this report is done in the same manner. But I want to get away from that issue. I just want to make the point that I feel that this is what you have done.

It seems to me that one of the issues that was important to you and important to your client - which is the government, I suppose - is to demonstrate that commerce will flow freely once you deregulate. This is the big problem: somehow, the Architects Acts is blocking this flow of commerce from occurring in Australia. That is fine in itself, but it obscures the fact that the other issue of commerce is what you are buying, and I don't think you have actually looked at that. The whole issue that is coming up, I think, for a lot of other architects is that there is a whole difference of what the public can buy from one kind of service and another, although, as it appears, unfortunately the public doesn't really know the difference, and this has come and you are - there's other things that you have said in here which follow the same route.

I will just mention this: by saying this statement that a lot of university training and some experience is not necessarily superior to less training and a lot of experience - it almost leads to this question of human beings are really geniuses at heart, and therefore we can all go away and not have to do any sort of training, we can just somehow use our inner resources and we'll discover all these things by experience. I don't even know why you're using that sort of argument.

**PROF SLOAN:** I think it is extremely tangential to the main thrust of the report, so - - -

**MR IVANOVICH:** Well, it's not tangential because the thrust of the report is that you are coming to a position where you want to deregulate the architects so that any person can call themselves an architect and then you say, "Well, the market will adjust itself somehow." In other words, my own mother could call herself an architect - - -

**PROF SLOAN:** Anyone can call themselves an economist at the moment. Arguably, economists could do a lot more harm than architects.

**MR IVANOVICH:** I don't know about that. I suppose the gist of the question is this: that you are saying that you want to open this up and somehow the commerce

will flow, and out of this everything will get adjusted because anybody who gets burnt will soon find out who they're getting burned by. You are also suggesting that it will be some sort of method by which the government will set up or follow on the problems that arise by using the Equal Opportunity Commission and the trade laws that are going to be looking after these kinds of problems. Don't we have enough examples already - for example, in the finance industry that we are reading about in Western Australia where - - -

**PROF SLOAN:** I come back to the point, what you need to do is demonstrate that in the public interest the benefits of these acts are greater than the costs, all right?

**MR IVANOVICH:** My view is - - -

**PROF SLOAN:** And I therefore think that you would be best to try and concentrate on what are the benefits.

**MR IVANOVICH:** All right. I'll tell you, the costs are pretty minimal at the moment because there's not very much money expended by the boards in doing what they do.

**PROF SLOAN:** No, but cash and costs are different issues. Something can cost very little in cash terms, but be extraordinarily costly, so we have concluded that the costs are quite low, mainly because there is no regulation of practice, so anyone can go out there and use whoever they like. Okay? We'd like to have some, I think, articulation of the public benefits. And what you're saying is the public needs to know who is a real architect and who is not.

**MR IVANOVICH:** No, the public needs to know who they can go to who has the kind of knowledge they need to achieve what they want to achieve, whether it's called "architect" or not. Earlier on you quoted something about the history of the Architects Act, and I notice, it seems to me, that it's made quite an impression on you. I don't think the question - it doesn't matter any more what the history of the Architects Act is. The point is, what does it do now?

**PROF SLOAN:** Yes, I agree.

**MR IVANOVICH:** And maybe the motives were wrong - I don't know, I haven't read into the history of that - but the whole point is that it's a device by which a person can know what kind of professional they can go to to achieve a certain kind of service. There are other people there who have already a space in the building industry who operate without any kind of restrictions and from my own personal experience create a huge amount of problems and illusion about what is possible. Now, this is where your argument is I think running in contrast to what you think you're trying to achieve.

I read somewhere else in the document that you are suggesting that the act even interrupts innovation because somehow the governing body of the act prevents



people

from being innovative, because somehow they can all sit and just think, "Well, I'm an architect, I have to do nothing." I mean, this is what is implied here, but it's quite the contrary, and it seems to me that the whole issue of training - that people may have none of it and can go out and practice and obtain clients - and those who have done some kind of training - that you can allow them to be on the same basis who actually have gone through the training, just doesn't make sense.

**PROF SLOAN:** But the act does absolutely nothing about that at the moment.

**MR IVANOVICH:** I am not saying that the act is perfect, and I think that there's a lot of things that can be done with the act to improve it. In fact, the act is very limited in what it can do, but I think the purpose of it, what its aim was, and - as far as my experience goes - the way it is being interpreted by people like myself who are on a board, is that we are there to protect the public. We know that the act as it stands has limitations to it, and I would personally like to see that there is more funding given and more resources given to an organisation like this, rather than scrapping it right out and then relying on some government department that you're going to invent, or pass it on to some government department, that is going to do the things that this organisation, which already has people on it who are quite conversant with the practice of building, construction, architecture, to monitor.

The problem with the act is that we have actually put things in there - one of your chapters - about there can't be improvements that can occur in the act, but you dismiss them. I don't know why you've done that. Why do you think that they cannot be implemented?

**PROF SLOAN:** In main, because we're driven by the competition policy agreement, that we're unable to demonstrate that the benefits are greater than the costs, and we are able to demonstrate that there are more efficient and effective mechanisms to achieve the objectives, and therefore that leads us to that conclusion.

**MR IVANOVICH:** All right, well, this business of - - -

**PROF SLOAN:** But all that discussion is in the draft report in part in response to the many submissions that were made along the lines - acknowledging that the regulations - the current regulations, the current statutes - are weak.

**MR IVANOVICH:** I agree with you, they're weak. And also there's the whole problem that is in our industry out there of designers and draftsmen who absolutely have no - you know, you say they are self-regulating, they are going to some kind of professional development. I am quite amazed by that. I am wondering what sort of professional development that is.

**PROF SLOAN:** You see, I don't think it gets anyone anywhere to bag your competitors, and too many of the submissions, too much of the arguments, are spent putting down the building designers and the architectural draftsmen and the like. It seems to me that we should stick to the main game.

**MR IVANOVICH:** It is not a question of putting down - I mean, we know, for example, that a lot of - - -

**PROF SLOAN:** Well, it is.

**MR IVANOVICH:** - - - things with the designers are - they are actually graduates who have come out of university, and their problems by which - the reason they are not registered - some of them choose not to be registered - you know, you could even say the boards appear to be too aloof and therefore people don't want to be again going out for another examination if they can go out there and do something on their own, or they feel that they are inhibited by having to race other people who have done more years' work than they have, and having to go through another test and get their approval. There are all kinds of reasons why those people are not registered, but that is a separate issue as to why - - -

**PROF SLOAN:** Well, they seem to have had a - - -

**MR IVANOVICH:** - - - the benefit of the registration - - -

**PROF SLOAN:** - - - less than honourable career in acknowledging overseas qualifications, too. We have had quite a lot of submissions from people who have had tremendous difficulty having their qualifications recognised here and - again - that would lead one to the conclusion that this is about protecting the profession and not the public.

**MR IVANOVICH:** You are - quite easy to make those conclusions, and I wouldn't say that this may not have happened in the past. Maybe it has. The point is that the question is, why do you come to the conclusion to repeal the act? I think that there is good reason and there are things that can be done to improve it.

**PROF SLOAN:** I'm sure that's true.

**MR IVANOVICH:** And whether that is to - I mean, you have listened to quite a few of them in the report.

**PROF SLOAN:** Yes.

**MR IVANOVICH:** I think it is completely wrong to throw it right out on the assumption that somehow everything is going to fall into its own place and if it doesn't we can just go and receive complaints - - -

**PROF SLOAN:** Well, we don't, of course - - -

**MR IVANOVICH:** - - - through the - - -

**PROF SLOAN:** - - - because we have a two-year notification period, so it's not done overnight and, secondly, we're recommending a form of self-regulation, including the many pieces of registration in the building industry which are directly targeted on consumer protection issues.

**MR IVANOVICH:** Yes, but I mean, there is no difference - - -

**PROF SLOAN:** So it's incorrect to label it as (indistinct)

**MR IVANOVICH:** I don't think that's going to make any difference to the public because all that will happen is that it could be two years for us to adjust - you know, the ones who think we are architects. It is for us to adjust two years to see where we are going to go, what is going to happen. It's not going to make any difference to the amount of abuse that goes on in the industry about people who make claims about things that they haven't actually achieved and get themselves into hot water, about things where they don't know what they're doing. So there will be no adjustment there.

**PROF SLOAN:** So the abuse is going on at the moment.

**MR IVANOVICH:** Sorry?

**PROF SLOAN:** The abuse is going on at the moment.

**MR IVANOVICH:** Yes, they are, yes. By your argument that the two-year grace is going to solve problems, I don't think is valid. I don't think it's going to work by - you're not going to solve those problems by deregistering. What you need to do is set up a system by which the two - there is already an industry of drafts people and designers who are there. You have to set up a system that somehow these people have to be brought into some kind of formal regulation, some kind of accountability, which is more than just having awards nights and putting their ads in the paper and calling themselves - saying that they can design buildings. That's one thing you've got to do.

At the same time I think you have to set up a system by which there is a distinction made about the various qualifications that different people have. That needs to be made clear to the public. If you're not going to have an act that's going to do that, how else do you propose to do it?

**PROF SLOAN:** How it's currently done in many other occupations, quite well.

**MR IVANOVICH:** For example?

**PROF SLOAN:** For example, engineering, accountancy, social work - for example.

**MR IVANOVICH:** You see, engineering is a bit different. I have problems with you calling engineering a comparable profession, because it's a profession where I've

actually - when I was doing my architecture I had to study structural engineering. That was part of my course. I know that for anybody to call themselves an engineer without any proper training is a much more dangerous course than to take a plan out of the newspaper, copy it and go back to a client and say, "I'm a designer, I'll do the same thing for you." It's a completely different thing. It's much more specialised in that respect.

**PROF SLOAN:** There is no legal restriction, nonetheless.

**MR IVANOVICH:** There is no restrictions, but what I'm saying to you is that there is no - the danger or the possibility of them running into some strife is much greater because we're dealing with very specific - which are to do with forces of the building and they will very quickly run into trouble and it's not profitable for them to try and copy it.

**PROF SLOAN:** That's a good example, therefore, because the way that risk is therefore managed is directly rather than indirectly through registering engineers. The same could be said of architecture. Target the specific problems, not regulate it indirectly through some input model like the Architects Act.

**MR IVANOVICH:** Yes, but what I'm saying to you is that you don't have the same desire by anybody to go into the industry because they know that they cannot get very far without university degrees. This is the difference.

**PROF SLOAN:** There are plenty who might want to go into accounting with their TAFE qualification and there is nothing to stop them calling themselves an accountant - and they do.

**MR IVANOVICH:** Yes, from that point of view that's probably right, but I'm just saying that there is - it is a good reason why the architecture course at universities takes five years and why it is considered necessary for the course to continue for another time afterwards in a form of apprenticeship, if you want to put it this way, architectural practice because of the extent of the material that has to be covered and the current experiences have to be gained. It is saying that architects need to - only when they have been practising for many, many years can they get to a position where they can consider they know the craft - because there is a lot that goes into this particular profession that cannot be known in a matter of two or three years.

What is happening is that we are living in a sort of populist culture that everybody can short-cut that sort of knowledge into solutions and some kind of marketable product that the public is prepared to buy. As far as you're concerned, it seems to me, as long as the money flows, what's the problem? I think this is the problem there. We have to think more about what kind of long-term effects we are creating here. I think that what's going to happen is that the way we are going to get is that the whole built environment will suffer as the result of this kind of change.

**PROF SLOAN:** All right. Unless there is something else major we might leave it at

that. Thank you very much for your participation.

**MR IVANOVICH:** Thank you.

**PROF SLOAN:** I declare this session closed and we will break until 10 past 2.

(Luncheon adjournment)

**PROF SLOAN:** We are now resuming the public hearings on the review of legislation regulating the architectural profession on 6 June 2000 in Perth. I now call on David Beetson. Could you give us your name and affiliation for the purpose of transcript.

**MR BEETSON:** Thanks. My name is David Beetson. I have no affiliations other than I am a member of the Building Designers Association. I was asked to join them in their fight. I have a bachelor of architecture from the University of Western Australia and I run an architecture practice. I'm not allowed to say that I run an architecture practice - it has to be a design practice - and I'm now on the run from the Architects Board, because at any time they could be serving a summons on me for breaching the act.

**PROF SLOAN:** Right. You might like to run us through that kind of process.

**MR BEETSON:** Yes. I have put together some notes of my thoughts on the Architects Act and what's right about it and what's wrong about it and what should be done about it, and also the misuse of the act at the moment. Basically, I think people need to be aware of the history of the architecture profession. It's traditionally been the pursuit of gentlemen and, like all professions, self-regulated. It started off as a club-like set-up where entrance was through invitation and regulated to protect the profession, and to look after each other, and not to compete against each other, and therefore in the act there are a whole lot of guidelines to architects to stay off each other's turf, one might say, and not to supplant - on each other's clients, etcetera.

In this day and age I would say that in itself is a laissez-faire breach of trade practices, that they're not supposed to undercut each other's fees, maintain the image of the profession - which, again, I maintain is an image. Now, that was the environment in which the act regulating the profession was enacted - based on a guild system, designed to restrict membership to those approved, and promote those included. The WA Architects Act, which up until recently set fees and charges by architects, is very much in that vein, and that act of actually dictating to architects the fees and charges they charge to clients was only removed from legislation under pressure from Commonwealth trade practices legislation as uncompetitive behaviour.

The act also concentrates on preventing members from competing with each other, supplanting. There is little or no protection afforded to the public, as the act is designed to protect the profession. Over the years, the board, on behalf of the registered architects, acting as a promoter rather than an administrator of the act, has had the act repeatedly amended to steadily increase their control over the use of the title "architect" and "architecture", as can be seen from the amendments shown in the act; that initially you could not say you were a registered architect unless you were, whereas now you cannot even use the word or the derivation of the words unless you are registered. I contend that this was initiated by the board to advantage the registered architects.



**PROF SLOAN:** But you are allowed to call yourself David Beetson, Bachelor of Architecture.

**MR BEETSON:** No, I am not. I have actually been convicted by the Western Australia Court of Petty Sessions of using that title.

**PROF SLOAN:** But factually you are a bachelor of architecture.

**MR BEETSON:** Yes. So therefore I am - now, whether that was a misinterpretation of the act, but that was action brought against me by the board under what they said was a complaint, which wasn't a complaint because it was action initiated by a member of the board, and they wouldn't give me any information as to the source of that complaint until I got to court. If I had said, "Sorry, sir, I will not do this again," as I think every other person that's been challenged by the board in the last 15 years has said, I would have never found out that the action was initiated by a member of the board.

**PROF SLOAN:** Right. Can I just make this clear. You are a bachelor of architecture - - -

**MR BEETSON:** Yes.

**PROF SLOAN:** - - - and you in fact work as an architect.

**MR BEETSON:** If I say myself that I work - - -

**PROF SLOAN:** No, sorry, in the non-legal sense of the term.

**MR BEETSON:** Yes. I run an architecture business and - - -

**PROF SLOAN:** In the non-legal sense of the word, yes.

**MR BEETSON:** Yes. If you look at the brochure - which I've forgotten to bring up here - that the Architects Board puts out which defines what an architect is, they are the services I provide.

**PROF SLOAN:** Okay.

**MR BEETSON:** I am not a draftsman. I employ a draftsman. Building design is only a very small facet of what I do. If I got registered, I would not change what I am doing, I would just be able to advertise and describe myself legally - - -

**PROF SLOAN:** Well, you have to be careful - - -

**MR BEETSON:** - - - in a different way.

**PROF SLOAN:** - - - because there are restrictions in advertising, of course.

**MR BEETSON:** Exactly, but that's again been diluted over the last, say, 10 years.

**PROF SLOAN:** You have to seek permission from the board.

**MR BEETSON:** Yes - well, I don't know whether all the advertising - that's the other problem I have with the board. It is very selective in how it administers the act as well, in that every week there are breaches of the act. I read the Western Australian newspaper on Saturday morning and there were about five breaches of either the Trade Practices by restricting work to architectural consultants. If you're not registered you cannot be an architectural consultant because that is - or referring to asking for applications for people in positions involving architecture, which didn't necessarily mean that you had to be registered to have those positions. So it's such a confusing mess.

**PROF SLOAN:** Can I ask you why you chose not to be registered?

**MR BEETSON:** It's the way that the board is run. It's a matter of principle. It's a charade. The registered architects and the board and that sort of thing is an organisation that promotes a perception that architects are superior, and they're not. As I think was mentioned this morning, David Standon, the lecturer from Curtin, in his post-draft report, submission, sort of indicated the deficiencies in the architecture course, and the possible knowledge of people that can be registered. I have, in my 20 years of working in the architecture profession, most probably worked for firms - - -

**PROF SLOAN:** That's non-legal?

**MR BEETSON:** Well, no. I've been working for 10 years. I've been engaged by registered firms to act as an architect. I've been subcontracted to the Western Australian government as a site architect on major projects, I have been employed by the federal government in the Australian Construction Services as a design architect. And that again is the twisted nature of the act, in that it is a control situation.

**PROF SLOAN:** Right.

**MR BEETSON:** But in working for those firms I have encountered the most ridiculous incompetence and sort of unprofessional - - -

**PROF SLOAN:** Not among registered architects?

**MR BEETSON:** Yes. But there's still this charade that the profession is superior, and it's wrong. It deceives the public as well, and a great majority of my clients employ me because of my stand, that I don't subscribe to the pantomime that the architecture profession goes into. I've never entered a competition in my life, be it - well, I can't enter any competition - - -

**PROF SLOAN:** Quite a few of those competitions are restricted to registered architects. Is that not right?

**MR BEETSON:** Yes.

**PROF SLOAN:** Yes.

**MR BEETSON:** I have had designs that I have done entered in those competitions by registered architects.

**PROF SLOAN:** Right.

**MR BEETSON:** I have had two or three architects that I have worked for take on my work as their own, and I've had a few clients do that as well, and a few builders as well do that, but that is one of the problems with not being registered also: because I can't market myself as a legitimate architect, I leave myself open to attempts at opportunism by possibly unscrupulous clients, etcetera. They feel that because I'm on the back foot a bit they can take maybe more advantage in saying that they've designed something and that my capacity to challenge them is limited. They get a bit of a surprise because that falls under trade practices legislation.

**PROF SLOAN:** Is there much transparency to the registration process? I mean, if someone failed, is it made clear why people fail? There were a number of submissions which seemed to lodge some criticisms about these exams - - -

**MR BEETSON:** Yes. I have never attempted to get registered, ever. Again, from when I graduated at university, I've basically divorced myself from the charade of the institute and the games that are played, and that sort of thing. Through necessity I've worked for quite a few of the large firms, and that's where I've gained my - - -

**PROF SLOAN:** So do you have knowledge of other people's views of the registration exams and how transparent that process is?

**MR BEETSON:** The only evidence I've got is the evidence that I included in my submission to the state inquiry into a review of the Architects Act, and that was from an ex-employee of mine that was running a business in Broome who attempted to get registered. He, in a few conversations we had, indicated that he felt that he was being impeded from being registered through not too ethical behaviour, that he was treading on toes. And that does come across.

I've even had that happen to myself in having clients approached by architecture firms to try to convince them that my service will be inferior to theirs, and in very bizarre ways, as well - usually anonymous. I've got a project on at the moment that just happens to be a veterinary pathology lab. I'm fairly sure of the identity of the firm, but they remained anonymous. They actually gleaned from the local council that this project was about to happen, because the land transfer had

happened, and actually

rang the business and derided me to the people that ran the business, and said that because I was a single operator and I wasn't registered, that my capabilities would be questioned, and would they like to make an appointment. But that's business.

**PROF SLOAN:** Yes, that's hard-ball competition.

**MR BEETSON:** But the registered architects are working at the moment with bigger ammunition than everybody else because they've got this legislation that they can wield and manipulate. Also, they're working with a heritage of control through corporate and government - the power of the architecture profession to keep work in-house, a private treaty and that sort of thing, is extremely strong.

**PROF SLOAN:** Right, so this is the idea - well, you've talked about the awards, but the idea that in effect - and then sometimes written down - there is work reserved for registered architects, certain types of work, public sector work particularly.

**MR BEETSON:** It's becoming harder for the registered architects and the board to restrict this, because up until maybe about 10 years ago just about all the work that came out of the BMA was distributed only to registered architects. There was a points system, also there was an old-boy network. The administrators within Homeswest and within the BMA and that sort of thing did the rounds of the after-work drinks at all the big firms and were ushered into the managing architect's office after drinks to see what was on the books.

That, I think, has changed in that now the BMA has been de-evolved into a contract management system where they are supposed to - they do very little in-house and it is all contracted out. Qualified building designers are being given access to work. But again, because many of the people who pull the strings within the organisations are either related to - which is another big thing within the architectural profession, is that it is a hereditary thing. The biggest developer in Western Australia - - -

**PROF SLOAN:** Sounds like the wharfies.

**MR BEETSON:** No, it is. It is, but it's like architects' children become architects.

**PROF SLOAN:** Right.

**MR BEETSON:** Therefore the lineage is carried through. I don't know why, because it's just the least profitable profession that one could possibly be involved in. Therefore in the public service side of things you've got some of the biggest architects in Western Australia who still have intimate connections with government through their contacts with what was the BMA, the PWD set-up. In a lot of the big firms, the directors and that cut their teeth within the public sector. There is even an insidious sort of continuation of this in giving out public work. Even in the paper on the weekend there was, from CAMS, an expression of tender and it actually referred to provision of architectural consultancy services.

**PROF SLOAN:** So legally that would be confined to someone with - - -

**MR BEETSON:** Yes, but that is like a slip of the pen by, I would presume, somebody that likes architects - I can only presume that. The last overt instance of this was when the City of Perth was dissolved into the three municipal towns. The commissioners who took over the control of the City of Perth - on that board there were two registered architects. They appointed another registered architect to call for expressions of interest for design of the three new council chambers. It was restricted to registered architects. It was explicit in the ad that it was applications from registered architects.

I wrote a letter to the state government, to the state tender board, saying that it was against their charter; no response. The Western Australian government, I think, is being very cautious in acknowledging or taking any action as far as the board. The minister actually has just responded - at the moment, as I said, I'm under threat of legal action.

**PROF SLOAN:** Further legal action.

**MR BEETSON:** Yes. My signage on a job says that piece of architecture is by me. That is what they've taken exception to - and my bachelor of architecture. On my signage I actually put a rider on the bottom of the signage that explains explicitly that I am not registered, that I don't subscribe to the Architects Act or the principles of the act or any such thing. I've been using that signage for the last six years. It just happens that this sign is on a main thoroughfare opposite a golf course in a fairly privileged area, which I assume is frequented by registered architects, and until I take it to court I can't be certain, but I would put my money on it, that it would be a registered architect or again, one of the board, who has initiated this.

It would be a very very long bow to draw to say that a member of the public has been offended by this. Also, the builder of the project was actually approached by phone by an architect asking them whether they were aware that by having the word "architecture" on my sign was a breach of the act. The builder sort of wasn't too polite. Well, he was as polite as he had to be, because that's where a lot of his work comes from.

**PROF SLOAN:** So you see the way forward as a repeal of the act as it stands.

**MR BEETSON:** Exactly. I think the act is an anathema. There needs to be control, but not this sort of game that's being played at the moment, because it is giving privilege and false information to the public. Registration of architects - as David Standon said - once you are registered, I could be a 70-year-old alcoholic with Alzheimer's but as long as I remember to pay my fees every year, I could wander the streets proffering my services as a registered architect. It's bizarre. A lot of people are victims of it. A lot of my clients come to me because of my outspokenness about the system and they feel more comfortable that I'm not wearing a bow tie and sort of

playing the game, that I can offer a service. But then I have to go into this basically same spiel as we're going through today telling them of the situation. From then onwards I'm their architect, to everybody, when people ring me up. But it's all an illegal - or it's a situation where I'm on the defensive because of the act.

**PROF SLOAN:** As we've done the numbers, you're not alone. There seem to be quite a lot of bachelors of architecture who are working as architects. It's not as if they've left the profession, but who - - -

**MR BEETSON:** Keep a low profile.

**PROF SLOAN:** Yes.

**MR BEETSON:** Yes.

**PROF SLOAN:** They often work in big firms.

**MR BEETSON:** Yes, exactly. I was approached all the time when I was working in the firms to get registered because it would add to their kudos. But also I'd say there would be a large percentage of architects who get registered just because they don't want the hassle which, to me, makes for an easy life, but it's hypocrisy. Not that I ever wanted to be nailed up on a cross as a martyr or whatever, but I find that it is hypocritical. If there were less hypocritical people around then maybe the act and the registration would have some meaning. It would have developed into just about all of the other registration boards who have serious public worth. Like the Builders Registration Board: you cannot offer building services unless you are a registered builder. If you do, you get fined for actually being one, or trying to be one. It's not just this sort of semantics of playing with words. It's a serious impost. They have a serious disputes resolution system and that sort of thing, whereas I don't know the numbers but I would say with the Architects Board the number of disputes they actually address as to the incompetence and bad work by architects would be absolutely minimal.

**PROF SLOAN:** Did you want to ask anything?

**DR BYRON:** No, thank you.

**PROF SLOAN:** Thanks very much, David. We have a very full schedule - - -

**MR BEETSON:** Yes, no worries.

**PROF SLOAN:** And we very much appreciate you coming along.

**MR BEETSON:** There's another seven pages of venom there, but I didn't get a chance to - - -

**PROF SLOAN:** That would be useful, if you could hand that up. As long as that's

on transcript, that should be fine.

**MR BEETSON:** Through pressure - what I will do is try to have this typed up and forwarded to the commission. In any case I meant to do that in my previous submission. I also noticed in the submission I gave to the commission that it is the only one on the list on the Net that is not accessible.

**MS GROPP:** Yes, because of the attachments (indistinct)

**MR BEETSON:** Problems. Because the court transcripts are copyright, or whatever?

**MS GROPP:** (indistinct) check how we can actually get them onto the Net (indistinct)

**MR BEETSON:** Right. I don't know whether it's worth me passing over to the commission the last letter that I've received from the minister on my current situation. He has actually said that the board only acts on complaints, which is basically wrong. Also, he has basically distanced himself from having any control over the board at all, which I'd say if pressed in a situation say, like the minister and the Western Australian government at the moment that's embroiled with the finance brokers - if he was pressed he would direct the board. But because it's minor and private - and that is the other situation with all of this review and that sort of thing - I don't know whether Joe Public really has been given much information as to what is actually happening. It seems to be a very inside thing between the people that are benefiting at the moment and the people that want - - -

**PROF SLOAN:** It's a perennial issue that faces the commission that those most affected by an inquiry will obviously take an interest.

**MR BEETSON:** Or whether they're really affected - - -

**PROF SLOAN:** To engage the interests of the public in something is very difficult.

**MR BEETSON:** Yes. Also the fact that this is the third sort of attempt to look at the act that I've come across. First of all there was the Hilmer report which faded into - - -

**PROF SLOAN:** No, this is the result of Hilmer.

**MR BEETSON:** The report was written, it's referred to - yes. Then we had the Western Australian one which disappeared.

**PROF SLOAN:** Yes.

**MR BEETSON:** As a result of this one. So whether anything is actually going to come of it - - -



**PROF SLOAN:** Watch this space. Thanks very much, David.

**MR BEETSON:** No worries.

**PROF SLOAN:** I now call on the architects from Morley Davis. If you could tell us your name and your association.

**MS VAN BREMEN:** I'm Merryn van Bremen. I have a bachelor of architecture and I work for Morley Davis Architects. I extend apologies this afternoon for Gavin Davis; he won't be able to attend. I've got a copy here of my full submission for you. There's a copy for you both to refer to.

**PROF SLOAN:** Thanks very much.

**DR BYRON:** Thank you.

**MS VAN BREMEN:** And also a full copy with a disk.

**PROF SLOAN:** If you could give that to Lisa.

**MS VAN BREMEN:** Yes. And the attachments of the originals are on the back of that.

**PROF SLOAN:** Thank you very much. If you'd like to start your presentation.

**MS VAN BREMEN:** Yes, certainly. I'm not yet a fully-fledged architect but I have my bachelor of architecture and several years now of experience in the field, and have a view to registering as an architect after this hearing and after the government's decision on the matter, if any incentive remains then to seek that goal, apart perhaps from my own commitment to the profession.

It seems the bottom line of what the commission is presenting to architects is: all responsibility and liability, no recognition and no reward. The commission suggests deregulation and proposes self-regulation as an alternative; give the accountability but cloud the recognition. I suggest confusion will reign if the title of "architect" is allowed to be unrestricted for use by anyone. The distinction for consumers will be made more difficult than ever.

At the moment, black is black and white is white. Deregistration will be introducing various shades of grey. Why can't we call a builder a builder, an engineer an engineer, a designer a designer, and an architect an architect, rather than an architect, an architect, an architect and perhaps a registered architect? Indeed, anyone at present can call themselves an architect if they go through the correct and recognised channels to do so. If they choose to become a builder or draftsman, so be it, but they know from the outset that it entails a different kind of career choice. There are distinct differences between each. They are also aware from the beginning that they will not be entitled to call themselves an architect unless they do the appropriate studies and gain the relevant experience, in the same manner as a person pursuing a career as an architect will not be recognised as a registered builder unless they complete the prerequisites.

If find it rather bizarre that in this day and age, where government bodies, companies, private and public institutions are demanding greater and further higher education for a more skilled workforce, the recommending body to the Australian federal government should be advising to lower these standards and effectively go backwards.

Who pays? The Productivity Commission argues that certification restricts competition to some degree, imposing costs on consumers, architects and non-architects. I suggest that costs will be imposed all the more on architects, non-architects and consumers alike if the requirement for certification is withdrawn. I ask: what cost to the consumer does the present regulation incur? The answer is that current regulation bears no cost on the consumer, as at present it is borne by architects themselves. The costs at present are solely upon architects not only for registration in the architectural industry but also to market the advantages of using an extensively trained, experienced and accredited practitioner in the field.

If one would care to rephrase the sentence from the commission's report where it states, "The costs of restrictions on the use of the title 'architect' and its derivatives does not appear to be large," this could be written to say, "The cost of restrictions is small." Costs, on the other hand, would be incurred by consumers, if the profession was deregulated, for the search and find. Who is a true architect?

The Productivity Commission considers that a change to voluntary self-regulation would be unlikely to impose hardship on architects or consumers. I beg to differ. Deregulation would impose enormous and burdensome costs on architects for promoting the awareness of the value of employing a highly trained and skilled professional with tertiary level qualifications and in-depth experience over and above the self-promotion of builders and building design firms, which already have an extremely strong market base, clientele and audience.

Building companies are obviously reaping a lot more than architects, as attested to by the massive advertising and sales commission budgets. Furthermore, the number of architects is relatively small to, say, the commission's example of self-regulated accountants and, due to the comparably small numbers, would be at a distinct disadvantage in an economic sense and means with which to promote themselves. There is strength in dollars and numbers and it is quite obvious that architects would struggle all the more to make their presence felt and create awareness of the valuable contribution to society they make - other than the buildings speaking for themselves, that is.

I fear that the call of the qualified architect will be deadened by the yodels of those who possibly may be granted this title without having earned it. Why should the title "architect" be taken from being awarded, not even to being bestowed, but simply free for all to use and possibly abuse? Are not the titles "doctor", medical or otherwise, "professor", "lawyer", "electrician", etcetera, reserved only for use by those who have evidenced the competency, earned the approval and qualifications

necessary for such practices?

Titles like these also serve two purposes: firstly, to point to the area of expertise and skill and signal a recognised, certified level of competency; and, secondly, to protect the public interest in the supply of their services. Why should the field of science and art in building therefore be considered any lesser or differently from these other areas of expertise? It must be remembered that the clients or consumers of architectural services are in fact not the only users but the effect of architecture is far-reaching and affects all the lives of those who live in, work in, play in, learn in and commute past the built environment.

Anticompetitive? No way. The Trade Practices Act has already deemed the architects acts not to be anticompetitive in nature. There is no restriction to prevent other people from practising and competing in the market. There is no price-fixing in the architectural industry and no anticompetitive practices. On the contrary, practices are extremely competitive, architects often finding they have to constantly undercut one another in order to obtain work.

The notion put forward by the Productivity Commission that architects rely on a legislated monopoly over use of title to protect them from competition is ludicrous. Architects have earned and are deserving of their title and it does little to protect them from competition. Furthermore, the suggestion in the report that some consumers may not be aware of the existence of other providers of design services other than architects is nonsense. Any simple man or woman can be flicking through Saturday's West Australian newspaper - there's the new homes guide - and be bombarded with advertisement after advertisement for builders and building design companies in the lift-out sections. Community newspapers also list design and drafting providers at your service.

The proliferation of off-the-plan houses popping up everywhere in growing suburbs and new estates in Perth indicates that the vast majority of house buyers buy from project home displays and from the folios of Perth builders. Competition is highly intense already, particularly in the housing sector. Deregistering architects would only serve to disadvantage this profession further. The commission's report states that:

Evidence suggests many consumers in residential and commercial sectors regard particular services provided by non-architects as closely substitutable for those provided by architects.

Yes, particular services perhaps, but show me a professional with a handle on all services, a one-stop shop for controlling construction from outset to completion, someone with first-hand exposure to builders and the building industry, someone to communicate with and coordinate all consultants, someone with an extensive range of skills, training and ability to deliver a full range of services, and I will show you an architect.

What is an architect? The Productivity Commission's report takes an extremely simple definition for an architect from the Concise Dictionary and then charges the Australian states and territories with having altered this definition. The definition chosen certainly is not just or comprehensive enough to classify, even in perhaps a succinct manner, what an architect is. One should, rather, turn to a more universally recognised definition of "architect". I refer you therefore to a practice note published in the July 1997 RAlA Practice Services. Herein it states the fundamental requirements of an architect as classified by the wider world community beyond the shores of Australia. The definition is:

The fundamental requirements for registration/licensing/certification as an architect are those skills and abilities that must be mastered through education, training, experience, and verified by examination in order to be considered professionally qualified to practise architecture.

The background to this definition is that in August 1985 the Commission of the European Community set down these fundamental skills and abilities and adopted them as law. I have covered them in my written submission, but I won't go fully through them here, to save time.

**DR BYRON:** Thank you.

**MS VAN BREMEN:** Specialised education and experience: in preparing myself for the examination by the Architects Registration Board, I have undertaken to study the contents of the four lever arch files of the RAlA Practice Service Notes to equip myself to best answer any questions posed. I have heard that the exam is tough and, for fear of failing and losing my hard-earned money invested into sitting the exam, this is enough to drive myself and other graduates I know to stretch their knowledge as far as possible to maximise the chances of passing.

You cannot tell me that the compliance with the requirements of the Logbook of Architectural Practice and the successful completion of the exam does not set architects apart, in a league of their own, in a unique league of educational standards, both academic and practical. To even be considered for the examination for registration, prospective architects have to demonstrate a high level of accountability and of mastering a wide range of tasks and instruction and leadership roles. There's an attachment, an extract from the logbook, in my attachments there. How can one be so blinkered or blind as to believe that five years of study, accumulated experience under a registered architect and competency exhibited by the successful passing of an exam cannot be in the best interests of the public?

Protection of the consumer: architects are charged and engaged to act in an unbiased and unprejudiced manner on behalf of the client and protect the client's interests whilst being fair to the builder concerned. They directly represent and are of first-hand benefit to the consumer. Acting in contract administration on behalf of the client as the mediator between the client and builder, the architect can ensure certain standards of quality are maintained by the builder, which oftentimes is not the case in

a direct client-builder contract.

Builders in many cases have a distinct knowledge advantage over the client and often fall short in standards of finishes, or disappoint, and cost the client dearly when works are not completed to time, with little to no liquidated damages clauses. The client all too often is trapped into ignorantly believing that they are adequately covered from the outset under the guise of a simple contract. Consumers are often unaware of their contractual rights and responsibilities when it comes to building. Architects are there to enlighten and administer contracts in a fair and just manner and to ensure certain standards are met and builders kept accountable. In short, architects protect the consumer.

**PROF SLOAN:** Have you got any evidence on that, by the way?

**MS VAN BREMEN:** Not any direct examples in my report, no.

**PROF SLOAN:** So that's just an opinion.

**MS VAN BREMEN:** No, in actual fact I can think of some examples. I do have two friends back in Victoria, one couple who's building a house and another single lady who's building a house. It's the same builder for both of them. The builder has fallen far behind and they will be getting, I think, \$100 a week for the builder not completing on time, and it's going to be quite an amount of time that the builder won't have completed on practical completion by the expected date.

**PROF SLOAN:** So that's the perils of not using a registered architect, is it?

**MS VAN BREMEN:** What I'm bringing out in this point is that architects are there to protect the consumer and check that those precautions are in place and that that doesn't happen, or at least that they're adequately reimbursed.

**PROF SLOAN:** It seems to me that if that were the case, given that there's no restriction on practice, you would expect a much higher percentage of the residential market to be going to architects, when in fact - well, we thought maybe it was only 25 per cent. We are told by architects it may be as low as 5 per cent of the residential market is actually captured by registered architects.

**MS VAN BREMEN:** I think most times people are always brought back to budget, I guess, and that is the budget alternative: to go to project home builders and so forth, and that's what people tend to opt for.

**PROF SLOAN:** Right. So consumers are acting in their own interests.

**MS VAN BREMEN:** What people tend to opt for is perhaps the cheaper option, which is not necessarily the wisest option or the most - you know, to protect their own interests. I think they don't realise enough of the services that an architect does provide.

**PROF SLOAN:** But then that's a marketing failure by the architects, surely?

**MS VAN BREMEN:** Yes, there is not a great deal of advertising perhaps from the architectural circle, and that could certainly be improved.

**PROF SLOAN:** We have got one submission, amongst others, from a building company which lists the problems encountered by using architects. It says:

They're very slow. A lot of things designed are structurally not feasible. They're never on budget. Most drawings do not comply with local authority regulations. They don't check that levels on plans are correct with actual levels. They rarely listen. Most designs are, in reality, impractical to live in, and they cannot communicate effectively.

So this is a user - in fact to the point that they now actually don't use any architects. So I'm just wondering what evidence you've got of the superior services of architects, apart from your opinion.

**MR MORLEY:** I'll get some for you.

**PROF SLOAN:** Okay, but we can't accept any comments from the audience.

**MS VAN BREMEN:** Timothy Morley is part of Morley Davis.

**PROF SLOAN:** If you want to come up and participate, that's - - -

**MS VAN BREMEN:** Yes. Okay, I'll continue.

**PROF SLOAN:** Can I just ask you a question though. If you see the registration process as being so valuable, why would you all of a sudden, in relation to this inquiry and its potential implementation, decide it's not valuable? You told us of all the benefits that flow from - bear in mind there are quite a lot of registered architects that didn't go to university, but leave that aside - university and the practical training, the logbook and the exams. Why would you not continue to see that as valuable?

**MS VAN BREMEN:** I would.

**PROF SLOAN:** But you said you were changing your mind as to whether or not you sat the exam.

**MS VAN BREMEN:** Yes.

**PROF SLOAN:** Because the passing of the exam gives you some competitive advantage? Is that the point?

**MS VAN BREMEN:** I said that if there still remains any incentive, yes, to complete the exam - - -

**PROF SLOAN:** A private incentive?

**MS VAN BREMEN:** - - - apart from my own commitment to the profession, yes.

**PROF SLOAN:** Right.

**MS VAN BREMEN:** So I'm trusting that that sort of incentive - - -

**PROF SLOAN:** So it's a private incentive?

**MS VAN BREMEN:** Well, it is. It's a recognised award and certainly the next step, the next progression in my career, is to, yes, achieve that.

**PROF SLOAN:** It's just that you rather wax lyrical about the advantage of this long training period and its structured nature and the like but, in the same breath, told us that you would reconsider if the acts were rescinded. Do I then interpret that the acts are there for the benefit of the profession of which you want to be part?

**MS VAN BREMEN:** It is a recognition. As you well know, you have to have the five years of education plus the two years of experience, minimum, plus you have to sit that exam, and in saying the amount of study and so forth that you have to prepare for the exam, I see it as being an extension of myself, a commitment to learning more, and I certainly see that it encourages people to learn more before they attempt that level.

**PROF SLOAN:** I think it would be true to say that Neil and I studied for many years longer than that without the law of registration of our occupations. I'm just interested that you feel that you need that - what? Public recognition, is it, or is it protection?

**MS VAN BREMEN:** There is an aspect of that, yes. Yes, that is part and parcel, but I believe the acts - - -

**PROF SLOAN:** So we were foolish for studying all those years because we weren't pursuing any public registration of our qualifications or occupations?

**MS VAN BREMEN:** No, I do not say that at all, but you have got your titles, haven't you?

**PROF SLOAN:** No, anyone can call themselves an economist.

**MS VAN BREMEN:** Can I call myself "professor" or "doctor"?



**PROF SLOAN:** It wouldn't be an illegal offence, I don't think.

**DR BYRON:** Somebody might ask you to clarify it.

**MS VAN BREMEN:** Yes.

**PROF SLOAN:** No, I think you can call yourself "professor" if you want to.

**MS VAN BREMEN:** All right.

**PROF SLOAN:** And, of course, if you go around the world, schoolteachers call themselves professors in a lot of parts of the world, so it does have a different meaning.

**MS VAN BREMEN:** Art and science intertwined: architecture is an age-old expression in art and in the technique of building. I quote from the Grolier Encyclopaedia:

The names of architects first began to be known in Italy during the Renaissance in the 15th and 16th centuries. The idea of a professional architect with formal training and academic qualifications is the product of the 19th century. In 1819, architecture - - -

**PROF SLOAN:** Can I just interrupt you?

**MS VAN BREMEN:** Yes.

**PROF SLOAN:** It's just that we've got a lot of people, and we can read this I think, in due course.

**MS VAN BREMEN:** Right.

**PROF SLOAN:** Maybe if you can come to some conclusion.

**MS VAN BREMEN:** Okay.

**PROF SLOAN:** Did you want to come up, Mr Morley?

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

**PROF SLOAN:** Fine.

**MS VAN BREMEN:** I'll just wrap it up then, with a few remaining points and just comments in regard to some of the things that were brought up in the report. One point in the review that the commission puts forward is an option for adopting a majority lay representation on the panel of the Registration Board. I wholeheartedly

support a proportion of lay presence on the board as a positive influence with a balancing effect. However, the idea for a majority representation has to be dismissed. How could a student in a particular field be assessed by anyone other than, or a majority of, those directly experienced in that field? Even at senior school level, maths teachers do not mark art history papers, nor do physics teachers grade biology projects. Similarly, how could it be possible to be conceived that an accreditation could be granted to an architect by anyone other than an architect?

The commission's proposal of the repeal of architects acts threatens to jeopardise many architects and their businesses. Suggesting the profession develop a voluntary national register of persons meeting certain criteria would require, in turn, a worldwide shift to recognise and accept this new recognition, with no guarantee overseas markets will immediately accept and embrace such a change, not to mention the cost involved here, which would no doubt end up being passed on to the consumer.

In closing, by all means review the architects acts themselves and revise such things as the advertising and age limit requirements, as they are redundant and outdated. To address the commission's concerns regarding the ongoing standards of service from architects in relation to current knowledge and competency, I would be prepared to accept the extension of a requirement for a practising architect to be part of the RAIA's ongoing professional development program. Membership of the RAIA would possibly then become more attractive to the non-member architect because, if it continues as it is currently, members receive attractive discounts on such programs. Even if full membership were to be made compulsory, which would be likely to double membership - if you refer to the conclusions in your review - I could foresee advantages in this, as a wider member base could potentially reduce the quite costly membership fees which currently deter many people from joining.

In the light of all the final responses and information provided, I trust that you, the Productivity Commission, will now be well equipped to review and be flexible enough to revise your stance on the issue. I urge you to carefully consider all these presentations today, and written submissions, in favour of retaining the current architects acts and to be extremely wary of the substantial risks and potential problems arising through completely abolishing them. For the sake of architecture and in the interests of the consumer and the whole of society, do not - I implore you, do not - open it to a free market approach where every person can freely claim the title of "architect".

**PROF SLOAN:** Thank you very much. Did you want to ask any questions now?

**DR BYRON:** There was one point. What the current state acts do - and I think we covered some of this this morning - is the reservation of title, the use of the word "architect" and its derivatives. What we are really arguing is the consequences of changing the use of the word. It's very much a semantic problem. But as it stands at the moment, I think there's a difference between the legal definition of an architect - namely, someone who is registered and has met all the requirements for registration -

and the common usage, the way Mr and Mrs Public out there in the suburbs think. Many of them may think that anybody who sort of does buildings is an architect, plus the fact that the word has sort of slipped into common usage, like financial architecture, the IMF, and computer systems architecture, and even George what's-his-name as the architect of the Fiji coup.

**PROF SLOAN:** Speight.

**DR BYRON:** Speight, yes. You get into problems about trying to have a very strict, narrow, legal definition of a word that's actually escaped. You make the comparison with electricians. My understanding is that anybody can call themselves an electrician, but you can't actually do the work unless you are licensed, and that's almost the flip side of architecture, where anybody can try and do the work if the client will have them but the use of the name is controlled.

You're implying in there that if the use of title was de-controlled, de-restricted, whereas at the moment there's a spectrum of skills, from the really brilliant to the substandard and lots of competent, good people in the middle - I don't see how that distribution of skills and expertise would change by simply changing the right to use the word. There will still be very good people who will be very desirable in the marketplace, there will still be very average people and there will still be some substandard ones. It's not as if suddenly everybody becomes of the same quality as the most inept, bumbling incompetent at the moment. Changing the use of the word doesn't affect the distribution of skills.

**MS VAN BREMEN:** No, I agree.

**DR BYRON:** So what we're suggesting is that there needs to be a way of communicating to potential clients out there, particularly those who don't know, that there are some very very good, very able, competent, outstanding people, and there are some substandard ones. At the moment there is a line. If you're registered you're deemed to be good; if you're not registered you're deemed to be not good. We have some concerns about how useful that information is to the vulnerable, naive, first-time clients out there and we're trying to think of a way of giving more information to those people who may be deemed to be at risk.

**MS VAN BREMEN:** In answer to that I'd say that being registered as opposed to non-registered at present isn't so much a distinction between good and not so good, but an architect has had to complete a certain curriculum in their course, they've had to complete certain experience and sit an exam for that. So what I'm saying is that "architect" is confined to those who have reached set controls or standards.

**DR BYRON:** A benchmark.

**MS VAN BREMEN:** Yes.

**PROF SLOAN:** Which presumably have changed quite a bit over time. So that as

far as the registered architect, there is no differentiation in the role - unless you seek this information - between someone who graduated in 1956 and registered in 1958 and between you who, you know, graduated in 1997 and will register at some stage.

**MS VAN BREMEN:** Mm.

**PROF SLOAN:** So there's no further information, and including the fact that there are of course architects on the roll at the moment that didn't go to university. They may be dying out but that certainly was a - there have been different models of training over the years.

**MS VAN BREMEN:** I guess there are provisions within the requirement of the exam, too, for those that, you know, have come in from overseas or have completed X number of years of experience, in lieu of other aspects that may be required. So there are those that are still included within that scope and can sit for the exam and become registered.

**PROF SLOAN:** It looks like absolutely tiny numbers achieve that at the moment. What I'm saying is that in fact if it's protecting the public it's conveying a very small amount of information compared with what could be provided - - -

**MS VAN BREMEN:** Yes.

**PROF SLOAN:** - - - and indeed which in all likelihood the vast majority of consumers will seek out in any case.

**MS VAN BREMEN:** There were, yes, several pages that I didn't have the opportunity to go through today, but I trust that you'll look at those.

**DR BYRON:** We will.

**PROF SLOAN:** I think we will. I'm sure we will. But I think the issue that black is black and white is white is not actually true at all. We have a lot of ambiguity in this situation where we have people who have architectural degrees who do work as architects but are not registered and therefore it's illegal to call themselves architects. That strikes me as a grey situation, not a black-and-white situation at all.

**MS VAN BREMEN:** I suppose it's black in that they should not be, yes, using the term "architect". I mean, I'm not allowed to - I'm exactly in that position of time at the moment. I cannot call myself an architect.

**PROF SLOAN:** Yes. But I wonder what public benefit is served by that, really. All right.

**MS VAN BREMEN:** All right.

**PROF SLOAN:** Thanks very much.

**MS VAN BREMEN:** Thank you.

**DR BYRON:** Thank you very much for all the work you put into that. We do appreciate it.

**PROF SLOAN:** Yes, thank you, Merryn. Have we got a copy of that? No. You've got it?

**MS VAN BREMEN:** Yes, there's a full copy there - - -

**PROF SLOAN:** Yes. Thank you very much, Merryn.

**MS VAN BREMEN:** - - - with the attachments as well. Thank you.

**PROF SLOAN:** And good luck if you decide to sit the exam.

**MS VAN BREMEN:** Thank you.

**PROF SLOAN:** Have we Robert Nicholson here? If you could state your name and affiliation for the purpose of transcript it would be most appreciated.

**MR NICHOLSON:** Yes, Robert Nicholson. I live in Bunbury and I'm an architect. I must admit I decided I'd come here and generally attack the commission, then I've only heard two speakers and I've decided that I don't know how you unpick this.

**PROF SLOAN:** Can I just warn you that I think attacking the commission is really not a very fruitful thing to do. Attacking the messenger is never a good way to argue.

**MR NICHOLSON:** I've had the profession attacked through your first draft.

**PROF SLOAN:** That's not true.

**MR NICHOLSON:** Well, I feel it is being attacked.

**PROF SLOAN:** It's not true. It's really better to stick to the arguments.

**MR NICHOLSON:** Yes. No, that's understood. But, as I've said, I've had many thoughts and then you hear the various arguments and, you know, you've probably listened to a lot and you've probably heard it all before. You are probably in a position to make your mind up and so you wonder what you can say which would alter one course of events. There's still the political hurdle from the commission's findings to the politics to implement it.

I think if you went around and kicked out the various legislation supporting the key professions - like medicine and law and veterinary science and dentistry - if you just kicked them asunder and you said, "Right, how is your profession going to take this?" you would find all sorts of people doing different tasks which they may or may not be able to do. It would be chaotic. There would be a reconciliation phase in which the community somehow got together to make sense out of the government withdrawing standards. There is no doubt about it, they would come again and there would be systems evolving.

Similarly, if you kicked out the architectural profession, the word, the name, there would be chaos initially from people who phone up an architect and - I mean, the one thing which amazed me in all of this is that there is a vast difference in standards in architecture. Architecture does try and limit them, but there is a huge set of standards in people who operate outside the field. To an extent that is recognised by the law - you know, you are judged as a professional in architecture. That is recognised by the insurers who will give you indemnity insurance. It is systems recognition which substantially people outside architecture don't have. They find enormous problem getting insurance. They find enormous problems advocating in courts of law any expertise.

**PROF SLOAN:** But what is the problem with that? I can go and buy my clothes at

the Myer bargain basement or I can go to Guucci. The fact that there is a big spectrum of quality on offer is a good thing, not a bad thing, isn't it?

**MR NICHOLSON:** It is in some aspects and that's why a lot of countries - I would have loved to have had a go at writing your report and doing a bit of background information and doing proper research like citing every country, not just selective countries like Sweden and England, or whatever country suited you for that particular argument. Do the lot and let's see where they sit, and publish it. Maybe you've done that. But there is a vast difference in the necessity of people - you get down to project home building and people do that blindfolded, and they don't need architects. You get into the more complex facets and you do need regulation. The regulations are a minefield.

Then it's where you regulate it. At the moment we are regulating it from a bottom end. We're saying, "We'll legislate for builders and a lot of the trades," and now we're even talking in WA about building surveyors being registered to check compliance. But I consider that bottom end. There are two mechanisms you can use to regulate - - -

**PROF SLOAN:** So the Architects Act is part of the bottom end, too?

**MR NICHOLSON:** I see that as top-end regulation. You regulate professions and then you hold people up for being competent within that group of professionals.

**PROF SLOAN:** By the professions themselves?

**MR NICHOLSON:** Of course. I mean, the boards have changed where they have nominally one person of each member of society on there, and that's probably a good adjustment to make, but nonetheless you do need peer group to actually understand if you're right or wrong. They have to set the standard.

**PROF SLOAN:** But isn't that - - -

**MR NICHOLSON:** People who don't understand - - -

**PROF SLOAN:** You call that the top end but isn't that very much an input rather than an output? You're saying that because people are registered professionals then somehow that implies a guarantee that they'll provide superior service to other providers.

**MR NICHOLSON:** Yes, I - - -

**PROF SLOAN:** But you've also told me there is a big spectrum of standards of architecture within registered architects.

**MR NICHOLSON:** You've told everyone this.

**PROF SLOAN:** Is that not true?

**MR NICHOLSON:** I'm saying that it's a question of extent. I'm saying the profession of architecture have got it contained within barriers - out there. What you're seeking is to allow anyone to design. That is totally uncontained and it has a totally unpredictable or variable - - -

**PROF SLOAN:** Let's be clear here. There are absolutely no restrictions out there in terms of those people doing anything.

**MR NICHOLSON:** No, that's right.

**PROF SLOAN:** So there's no regulation of practice, there's only reservation of title.

**MR NICHOLSON:** That's correct.

**PROF SLOAN:** So I don't quite see your point.

**MR NICHOLSON:** But you come back to the same old thing: what do you think government has as a role and its duty? I think by the mere fact of even defining a profession what the government is saying and - if you hire an architect you expect that, and that person will be, under statute law, taken to the cleaners or scrubbed off and disbarred.

Imagine the case of a person who goes under your new world - of anyone being able to design anything and no architectural legislation - and anyone picks up the phone book and gets an architect who did one year and flunked out of Leederville, drafting, and sets himself up. Now, if she tries to get redress, what is the system there? What mechanism?

**PROF SLOAN:** It's exactly as it is now. There is a whole lot. There is the common law, there is the Trade Practices Act, there is the - - -

**MR NICHOLSON:** Common law won't be particularly helpful.

**PROF SLOAN:** But you go to the Architects Board and what happens? You've got a serious complaint - - -

**MR NICHOLSON:** Actually, you probably get deregistered.

**PROF SLOAN:** How many have been deregistered over the years?

**MR NICHOLSON:** I don't know, I've never been in front of them. I wouldn't know, but the point is for anyone who has spent eight years trying to gain registration, it's meaningful.



**PROF SLOAN:** Yes, it's a very very small number.

**MR NICHOLSON:** That's good.

**PROF SLOAN:** It's a very small number compared with the number of consumer complaints.

**MR NICHOLSON:** And that should weigh up as a positive point in your mind.

**DR BYRON:** Is it also possible that, after being deregistered, they simply rebadge themselves as a building designer and carry on exactly as they were the day before? They have suffered the loss of title - - -

**MR NICHOLSON:** Let's just get back to the definition of "a profession" and how the law weights it.

**PROF SLOAN:** There is no definition of "a profession" that the law accepts. Indeed, according to our advice from the ACCC if there were to be, it would be according to the dictionary which is the one we quote.

**MR NICHOLSON:** I don't know. When you are an expert witness, you know, those professional qualifications are relevant. But maybe they're not in your understanding.

**PROF SLOAN:** They are, to give weight to the credibility of your evidence.

**MR NICHOLSON:** It gives total weight, otherwise you're not an expert witness.

**PROF SLOAN:** I've been an expert witness in many cases and I'm not in a statutorily registered occupation, so it clearly is not necessarily - - -

**MR NICHOLSON:** You're a bit more rarefied. They don't need to protect the community against economists.

**PROF SLOAN:** Some people would say they really do.

**MR NICHOLSON:** But they certainly do in terms of these broad spectrum professions, which I would say are law, medicine, architecture. They can create absolute havoc. That is what I'm saying - you can legislate for everything down the bottom end and get everyone to do anything, anyone can do anything, or you can have marginal weighting up at the professional level, you judge everyone and if not, they are disbarred. That is, I believe, a minimum state protection.

**PROF SLOAN:** The advice we have from the ACCC is that there is no legal definition of "profession" in Australia and if there were to be, the courts would judge it by a dictionary definition. This is from Alan Fels himself. Furthermore, being

registered under an Architects Board, for example, would not form part of the definition.

**MR NICHOLSON:** So there is no definition of medical practitioner?

**PROF SLOAN:** They are registered like you are.

**MR NICHOLSON:** Exactly, but there is a definition and under law it's always taken into account.

**PROF SLOAN:** In this context there is no standard definition of - legal definition of "profession".

**MR NICHOLSON:** I don't like your advice, personally.

**PROF SLOAN:** Well, maybe not. I'm just trying to get at this point where you say this is high-level regulation as opposed to these regulations that are trying to actually - - -

**MR NICHOLSON:** If you cited many states in America, their legislation technique is having a list of people who can document buildings - building professionals - and they expect them to have professional indemnity. I think that is a very good idea.

**PROF SLOAN:** That's not a requirement of registration in Australia, though.

**MR NICHOLSON:** I know, but it's a strange thing. You know, you've got to be a registered builder to build a building, and it's covered all down the line but anyone can design it. Anyone who knows design or has been in it for a while would know you can create havoc. There are realms which are purely to do with the architect or the designer which no-one else touches on and they can create havoc in a building. They're the ones who set up - look, if you've got a well-documented building at inception you have very little problems under construction. It all flows through that. That is totally unregulated in our society.

I just would have preferred a bit of a broader range of things saying, "We've got a community interest here, let's broaden it out, and let's see how that can be protected and made a bit safer for expectations." I personally still like the system whereby - and I still think it's more efficient for society - that you have certain regulations, stipulations, guilds if you like, and you comply with them and then you get on with your system. But the system of breaking everything down, so everyone has to make every finite decision themselves, is actually just counterproductive to activity. I might be wrong, but the societies dreaming ahead are often the more regulated ones.

**PROF SLOAN:** All right. Did you want to ask a question then?

**DR BYRON:** No, I don't have anything to add.

**MR NICHOLSON:** I do hope you consider it deeply and over and above your terms of reference look at the greater protection. It's easy to dismantle a profession. You kick out this legislation and everyone calls an architect - there are no more architects left - you will have done a great achievement. You want to weigh heavily on that because there are a lot of people who spent a lot more time over and above remuneration to promote the benefits of architecture, and you get that under this system.

We don't get many benefits. I would look around at my fellow architects and basically we're in a low-income earning lot. We accept that because we probably have a bit more pleasure in our work than a lot of others. But I would caution you about destroying something which isn't causing problems at the moment. If it's not broke, you know, don't fix it. What you will do is set in train a lot of events which you don't understand at the moment, because I don't think you're an architect and you don't appreciate the depth. You might feel you've seen the field, but you haven't got the depth of knowledge. You will set in train a lot of other things from indemnity insurance companies all around which will make up the gap. There's no two ways about it - they'll make up the gap - but I think it will be far more inefficient.

**PROF SLOAN:** There have been a lot of people, though, who have talked about the quite serious weaknesses of the acts and the registration arrangements, so you don't see - - -

**MR NICHOLSON:** As I said, I would like to see a list of documentation of professionals - and building designers would be in that and they would be one tier - and I'd like to see it rated in complexity of building, to an extent, and I'd like to see all the engineering consultants brought into that - like in America. I'd like to make sure they've all got professional indemnity in their ongoing building. That's getting sensible; now we're achieving something. But it's not by getting rid of just simply the architecture thing. That is actually losing a body of learning which won't be repeated. I imagine - I come from a region, you've got to understand this, and you can see draftsmen - - -

**PROF SLOAN:** Yes, so I do.

**MR NICHOLSON:** - - - coming in and coming out and calling themselves architects and you get on to the board and they leave, I would say, a string of litigation after them and they nick off. They go in cycles. Some do the circuit around Australia. You see the real benefit of some protective mechanism - but I know the RAI A might have a different view, that they are a professional organisation and they feel they might gain out of this in some respects. But I believe if you kick away the fundamental legislation the state is saying, "Well, we don't see the merit in that profession." Before you know it you've lost a profession and it is one of the oldest professions. There is a culture which prevails there. I don't disagree with anything this bloke, David, in many respects, says. Only I think he should become part of it. He wouldn't be one of the big problems as I see it. But he's on the upper end of that big sea out there who would call themselves architects.

**PROF SLOAN:** Thank you very much.

**DR BYRON:** Thank you.

**PROF SLOAN:** Thank you for coming up from Bunbury.

**MR NICHOLSON:** It's been a great pleasure.

**PROF SLOAN:** I now call on Brian Wright. If you could state your name and your affiliation.

**MR WRIGHT:** Yes, my name is Brian Wright. I'm chairman of the Architects Board in Western Australia.

**PROF SLOAN:** Thanks very much. Would you like to make a little statement?

**MR WRIGHT:** I think you've seen our submission. I think you might get the gist of it. We would like the commission to actually present this report as is because we don't think it will stand up anywhere, so you may as well present it as it is and we'll take it to task at the appropriate forum.

**DR BYRON:** In everything the commission does there is always a disclosure draft to give all interested parties an opportunity to react, to contribute, to correct errors of fact or challenge points of misinterpretation. If you choose not to exercise that option that's perfectly within your rights.

**MR WRIGHT:** As we put in our written submission, which I'm sure you've got a copy of, basically the document is full of inaccuracies and unsubstantiated conclusions. It's obvious that it's based on a lack of the understanding of the profession and what the profession actually does. I don't believe there's any point in nitpicking. I think it's a document that in toto needs to be discredited and that's what will happen.

**PROF SLOAN:** That seems to me to fall into the trap of criticising the messenger rather than the message by not in fact being able to deal with the argument.

**MR WRIGHT:** But who created the message?

**PROF SLOAN:** Well - - -

**MR WRIGHT:** The messenger in this instance.

**PROF SLOAN:** Yes, but it seems to me that if you play football you play the ball, not the man, do you not?

**MR WRIGHT:** I don't know, if you watch Aussie Rules these days - - -

**PROF SLOAN:** I'm asking you as a professional.

**MR WRIGHT:** No, I'm attacking the report.

**PROF SLOAN:** So you see the West Australian Architects Act as perfect and the operation of the board beyond criticism?

**MR WRIGHT:** No, you know that is not the case. If the commission had done its investigation it would be well aware that the Architects Board and boards around Australia have been trying for many years to improve the acts. We recognise that there are shortcomings but we always seem to get thwarted by political intervention or inaction, and in our case it tends to be a bit of both because every time we've tried to get something done we've either had a change of minister - or this last effort where we actually had an issues paper drawn up by our solicitors, only to have the whole thing come to a halt because of this national review.

So no, obviously it's not perfect. That's a silly statement to make really. I mean, of course it's not perfect and that's why we've been trying to change it. I'm sure you've had a submission from AACA and if you've read the legislative guidelines, which is what we're all heading towards or trying to head towards, you'd realise that a lot of the things that you showed up in the commission's report as being inadequacies are already addressed.

**PROF SLOAN:** Our flawed report.

**MR WRIGHT:** Your flawed report, yes.

**PROF SLOAN:** Of course our role was not to assess those legislative guidelines, and is there - - -

**MR WRIGHT:** I think it was. I think if you look under your terms of reference - - -

**PROF SLOAN:** Absolutely not.

**MR WRIGHT:** I dispute that. I think you need to go back to your own terms of reference - - -

**PROF SLOAN:** Well, you tell me in the terms of reference where that - - -

**MR WRIGHT:** Jane, where did you pick that up?

**MS .....**: (indistinct) clauses.

**PROF SLOAN:** Now hang on, we can't take anything - - -

**MR WRIGHT:** That's my registrar.

**PROF SLOAN:** Well, if she wants to come up, that's fine, but we cannot take anything from the floor.

**MR WRIGHT:** Okay. She was saving time by pointing out where it is.

**PROF SLOAN:** I mean, as Neil said, this is actually serious.

**MR WRIGHT:** I'm sure it is.

**PROF SLOAN:** And to be taken seriously.

**MR WRIGHT:** I'm sure it is. It's in your own terms of reference and there is - where it requires you to look at legislation, proposed legislation, etcetera, so I think you need to read your own - - -

**PROF SLOAN:** It requires us to look at alternatives.

**MR WRIGHT:** Yes.

**PROF SLOAN:** Which we have.

**MR WRIGHT:** And proposals. Well, alternatives you can read as proposed. Then you should know about the AACA guidelines.

**PROF SLOAN:** We do know about them, but it is not - - -

**MR WRIGHT:** Then you would know that those guidelines actually pick up on a number of those things that you call shortcomings in the act.

**PROF SLOAN:** Yes, we're aware of that.

**MR WRIGHT:** Okay.

**PROF SLOAN:** It's an interesting issue though that they haven't been enacted anywhere, which suggests perhaps that the politicians regard the architects acts as there for the benefit of the architects.

**MR WRIGHT:** No, that's not true.

**PROF SLOAN:** And therefore have not been particularly - - -

**MR WRIGHT:** No.

**PROF SLOAN:** There's not been much movement in any of the stats.

**MR WRIGHT:** No, because every time we try our politicians decide to change ministries.

**PROF SLOAN:** But hang on, it's not just Western Australia.

**MR WRIGHT:** The others have been trying as well.

**PROF SLOAN:** Well, exactly, and in fact in some of the other states it's come very close to just the acts being rescinded.

**MR WRIGHT:** We went down our own review process, as you well know, and the firm ERM Mitchell McCotter produced a report which - if I didn't know better, I'd say the commission had plagiarised their report because, if you read them, you'd think they were written by the same person. I guess when you have economists looking at the profession - I mean, in all honesty, I don't believe you could have come up with any other recommendation than what you've come up with in this document because that's how economists think. But that document, the ERM Mitchell McCotter document, recommended initially repeal of the act but then a number of government bodies locally in Western Australia pointed out all the inaccuracies in that document and it was withdrawn and before it could be redrafted we had the news of the national review. So, yes, what you say is right but it doesn't mean that those reviews were correct.

**PROF SLOAN:** No. It doesn't mean they were incorrect either. So you regard engineers as a profession inferior to architects?

**MR WRIGHT:** No, not at all.

**PROF SLOAN:** And you think that a system of non-statutory regulation works badly for engineers and harms their standing overseas?

**MR WRIGHT:** No, not at all.

**PROF SLOAN:** So what is so special about architecture that it would require statutory registration?

**MR WRIGHT:** It's protecting the public.

**PROF SLOAN:** In what way does it protect the public?

**MR WRIGHT:** Because any man and his dog thinks he can draw plans. I mean, think about it, why do the non - - -

**PROF SLOAN:** Well, that's so - - -

**MR WRIGHT:** Wait a minute. Why do the non-architects want to call themselves architects?

**PROF SLOAN:** According to our evidence, not many of them do.

**MR WRIGHT:** Then what's all the fuss about?



**PROF SLOAN:** Exactly. You tell me.

**MR WRIGHT:** Exactly. Why not let a system that's run for 80 years continue to run exactly the way it has without throwing it out and creating more problems?

**PROF SLOAN:** But there's no defence of reservation of title. They don't want to call themselves architects. We have some submissions which say the last things they want to do is call themselves architects because they're seen as expensive and slow.

**MR WRIGHT:** That's their perception but the reality is that people seek out architects because there is a perception within the public of what an architect means. An architect means that that person has reached a certain level of education and training where they can have some faith in his ability or her ability to produce what they want.

**PROF SLOAN:** So all the information they needed is contained in the registration?

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

**PROF SLOAN:** Right.

**MR WRIGHT:** You're saying that.

**PROF SLOAN:** So that's all a consumer does? A consumer doesn't ask for other information? A consumer doesn't ask to look at a portfolio of previous work? It doesn't ask around?

**MR WRIGHT:** Of course it does, because architecture is an art and it's like you going in to buy a piece of artwork. Do you buy it just because it's done by an artist or do you buy it because you like it?

**PROF SLOAN:** Well, I feel a bit floored by the notion that it's an art actually but, yes, go on.

**MR WRIGHT:** So you don't believe architecture is an art? Well, there you go.

**PROF SLOAN:** Well, we don't register artists.

**MR WRIGHT:** That's why I say that this document is flawed, because it's based on a total lack of understanding of the profession.

**PROF SLOAN:** But we don't register artists.

**MR WRIGHT:** No. Why should you? Because - - -

**PROF SLOAN:** Therefore we shouldn't register architects, who are artists.

**MR WRIGHT:** Yes, you should, and the reason you should register architects is that when a person spends money on a building it's one of the biggest investments they make in their life. If they can't have some system by where they can go and approach somebody who they believe has a - notwithstanding whatever design he produces and the fact that they like him as a designer, but they could go to a designer and say, "Okay, I like what you do in terms of the looks of your building but are you an architect?" If he says, "No," that should ring a bell and say, "Well, okay, he designs fancy buildings but does he really know what he's doing?"

**PROF SLOAN:** You mean not a registered architect?

**MR WRIGHT:** Not a registered architect.

**PROF SLOAN:** All right. But someone who - they like the designs - - -

**MR WRIGHT:** Look, there's lots of - - -

**PROF SLOAN:** They like that design, the person has an architecture qualification but is not a registered architect.

**MR WRIGHT:** That could mean that he hasn't got the experience. I can give you a case - and probably giving you an example is the best way to show how silly this report is. I have a client that I'm trying to help at the moment, who built a cinema complex. He employed someone who he thought was an architect. This person held out to be an architect.

**PROF SLOAN:** Did he ring up the Architects Board?

**MR WRIGHT:** No, he didn't.

**PROF SLOAN:** Did he know of - - -

**MR WRIGHT:** He believed this person - - -

**PROF SLOAN:** Did he know of the Architects Board?

**MR WRIGHT:** Yes, he knew of the Architects Board but he believed this person was an architect.

**PROF SLOAN:** Well, you can't save people from themselves, can you?

**MR WRIGHT:** No, but he employed this person. This person designed this building and documented for him and started to administer the contract, and the project ran off the rails. The building owner decided that he'd better get rid of this

person. He got a clever lawyer who helped him and they wrote an agreement which exonerated this particular person - and God only knows why - from any responsibility - future or further responsibility for the project, and this person walked away scot-free. This person now has a \$5 million cinema complex which leaks, the airconditioning doesn't work properly, they can't service the airconditioning properly because the person who designed the building didn't think about how they were actually going to get to the units to service them, and so it goes on. There are so many design faults in this - - -

**PROF SLOAN:** But this is in the context of the regulation that you maintain protects the public.

**MR WRIGHT:** No, this person was not an architect.

**PROF SLOAN:** Yes, but - - -

**MR WRIGHT:** He was gone to because they thought he was an architect and they thought he had - because he held himself out to be an architect they thought he had that required standard that architects are required to have, but he didn't.

**PROF SLOAN:** But this is under the existing arrangement, so is this not an indictment of the existing arrangement?

**MR WRIGHT:** No, because it shows the problems that will occur if you get rid of the system and anyone can call themselves architects.

**PROF SLOAN:** But this problem occurred under the existing system.

**MR WRIGHT:** Yes, and I'm using it to highlight what's going to happen if you get rid of the system altogether.

**PROF SLOAN:** Of course we're not recommending that.

**MR WRIGHT:** Yes, you are.

**PROF SLOAN:** No, we're not.

**MR WRIGHT:** Yes, you are.

**PROF SLOAN:** We're in fact arguing for much stronger consumer protection to be initiated through probably the RAIA.

**MR WRIGHT:** The RAIA is not the appropriate body. You know that, I know that, everybody in this room knows that.

**PROF SLOAN:** I don't know that at all, I'm afraid.

**MR WRIGHT:** Then you should.

**PROF SLOAN:** Why is that?

**MR WRIGHT:** Because the institute is a professional club. It's a club for members. Its role is not in the protection of the public. Its role is in the promotion of its member services.

**PROF SLOAN:** But your board's there and it didn't protect this member of the public, did it?

**MR WRIGHT:** No, because it didn't have the opportunity to do it. Now, what you're suggesting, which I agree with you - - -

**PROF SLOAN:** And what happens, they come to the board - - -

**MR WRIGHT:** No, don't talk over the top of me.

**PROF SLOAN:** - - - and nothing happens.

**MR WRIGHT:** What you're suggesting, and I agree with you, is the strengthening of the act. I think it would be a wonderful thing. What you've been saying - and what you've been saying earlier - is actually promoting a strengthening of the act, which I think would be great and I wholeheartedly support you.

**PROF SLOAN:** Let's say, though, the person who designed this dodgy cinema was actually a registered architect, which you would have to admit was a possibility, right?

**MR WRIGHT:** Yes.

**PROF SLOAN:** You're providing no (indistinct) protection.

**MR WRIGHT:** Yes, you are, because - - -

**PROF SLOAN:** No, you're not, because they're actually a registered architect anyhow. Then they complain to the Architects Board, so what happens?

**MR WRIGHT:** They would be deregistered.

**PROF SLOAN:** Would they? How many architects have been deregistered in Western Australia over the years?

**MR WRIGHT:** Not many. You know why?

**PROF SLOAN:** How many?

**MR WRIGHT:** I don't know the exact numbers, but do you know why? Because the system is working.

**PROF SLOAN:** And how many in relation to the kinds of - - -

**MR WRIGHT:** No, you didn't pick up on the point.

**PROF SLOAN:** Yes, I did.

**MR WRIGHT:** The system is working. That's why there isn't such a large number.

**PROF SLOAN:** Well, that's one interpretation.

**MR WRIGHT:** You can gloss over that.

**PROF SLOAN:** Another interpretation is that the board is also a club and that you don't expel members of your club unless it's in extreme circumstances.

**MR WRIGHT:** But, you see, that just shows an ignorance of what happens.

**PROF SLOAN:** It would be nice to compare the number of deregistrations with the numbers of complaints under other forms of consumer protection, fair trading laws and the common law in building disputes.

**MR WRIGHT:** And I think you should do that because what you'll find is that most of the complaints are against non-architects.

**PROF SLOAN:** What - - -

**MR WRIGHT:** People calling themselves architects but who are not registered architects.

**PROF SLOAN:** Of course in the domestic sector you would expect 95 per cent of the complaints to be against non-architects because that's who does the work.

**MR WRIGHT:** Yes, exactly.

**PROF SLOAN:** So that doesn't prove anything.

**MR WRIGHT:** No, exactly. So why raise it?

**PROF SLOAN:** Well, no, I'd like to look at the number of complaints against architects pursued by means other than through the board.

**MR WRIGHT:** You'll find it very small, and most of those cases come before the

board anyway. If an architect is pursued to that extent, it will come before the board.

**PROF SLOAN:** And in the case of a complaint, that is just handled by the members of the board, by the profession, essentially, there's no independent complaints mechanism, no system - - -

**MR WRIGHT:** No, but the board is not made up of just architects.

**PROF SLOAN:** It's predominantly architects.

**MR WRIGHT:** It's predominantly architects, and so it should be, but it's not just architects, which you seem to continually - - -

**PROF SLOAN:** Why do you say it should be? If you were there to protect the public - - -

**MR WRIGHT:** Because how can someone who has no knowledge of the profession write a 180-page report, and also that same person sit and judge a professional, a peer, without the knowledge of whether that professional has done something right or wrong in the first place. You have to have an understanding of the profession to understand whether someone's done something right or done something wrong.

**PROF SLOAN:** That may be so, but that doesn't have to be by a system of an architect-dominated board.

**MR WRIGHT:** I don't know why you keep saying architect-dominated, because it's not, and that's - - -

**PROF SLOAN:** Well, it is. It is factually true.

**MR WRIGHT:** I know, but again if you'd read the legislative guidelines you'll find that the boards have been proposing for some time to rebalance them. I mean, we have government representatives, we have industry representatives on our board, so, you know, what you're saying - - -

**PROF SLOAN:** You have two.

**MR WRIGHT:** Three, actually.

**PROF SLOAN:** And a chairman who is an architect.

**MR WRIGHT:** Yes.

**PROF SLOAN:** Yes.

**MR WRIGHT:** I certainly don't - - -

**PROF SLOAN:** You know, it just would be seen as a form of - - -

**MR WRIGHT:** - - - see any problem with that. The chairman could be an economist.

**PROF SLOAN:** A form of consumer protection - you would really expect, I think, as indeed the UK system went to a majority of lay membership - - -

**MR WRIGHT:** Look, the whole operation of the board is very transparent, so I don't see, whether it's architects or non-architects or whatever - it's there, it's available. What we do is very transparent. It's all recorded. If there is a case that comes before the board, it is all recorded, and it's freely available to the public.

**PROF SLOAN:** Is it? On the Net? Do you put it on the Net - - -

**MR WRIGHT:** No, we don't publish it on the - - -

**PROF SLOAN:** - - - who's made the complaint?

**MR WRIGHT:** No, we don't publish it on the net.

**PROF SLOAN:** Why not?

**MR WRIGHT:** Well, because we haven't got funds that obviously were spent on preparing that report - we haven't got unlimited funds to waste on putting things on the net. If someone wants - - -

**PROF SLOAN:** But isn't transparency important?

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

**PROF SLOAN:** In the submissions we have a number of - well, complaints, they are, really - about the non-transparency of the examination process.

**MR WRIGHT:** You mean the examination process for registration?

**PROF SLOAN:** Yes.

**MR WRIGHT:** How can that be transparent? What do you want to do, give everyone a copy of the answers before they go in? I mean, I don't understand your - - -

**PROF SLOAN:** I think you know what I mean.



**MR WRIGHT:** - - - line of questioning.

**PROF SLOAN:** I think people require feedback as to why they failed, for example.

**MR WRIGHT:** They will get feedback on why if they ask for it. They can get feedback on why they failed.

**PROF SLOAN:** We have got, I think, in particular, some quite alarming complaints from those who've qualified overseas as to the non-transparency of the process.

**MR WRIGHT:** It may be because they are disgruntled because they didn't reach the required standards. I don't know. I would be interested to see those.

**PROF SLOAN:** They're all on the Net.

**MR WRIGHT:** Yes, I know, but there was thousands of them on the Net and I read what I considered to be the important ones.

**DR BYRON:** We read them all.

**PROF SLOAN:** Yes, we've read them all.

**MR WRIGHT:** Well, as I say, I'm trying to run a business. I haven't got the time. If I had government funding then, sure, I'd sit down and read them all, all day.

**PROF SLOAN:** But it's an important point, isn't it, that - I mean, the universities are having - I think quite rightly so - to move to much more transparent assessment procedures. You can't just say to someone, "You've failed."

**MR WRIGHT:** We don't. We give reasons.

**PROF SLOAN:** Right. There does seem to be some opaqueness about that process.

**MR WRIGHT:** Maybe if there is then you need to explain it more in the commission's report, because I think a lot of statements are made in here without any sort of factual backing.

**PROF SLOAN:** Well, dare I say it, that I think one very serious criticism of the boards, and indeed the notion that this is a publicly-regulated profession, is the complete lack of information, useful information, that can be generated by the boards. I mean, we had a great deal of difficulty establishing the number of registered architects in Australia who are practising architecture. You have dead people and retired people and all sorts of people on your books, and I think one of the important - - -



**MR WRIGHT:** That's because we haven't got unlimited government funds.

**PROF SLOAN:** It seems to me that if you want to justify continued government intervention, this is the kind of thing you would expect, that there would be - - -

**MR WRIGHT:** Are you suggesting we go to the government and ask for more money?

**PROF SLOAN:** No.

**MR WRIGHT:** We don't cost the community anything now. What you're suggesting is that we become a cost to the community.

**PROF SLOAN:** Well, it seems to me that at a minimum we should have been able to easily access the number of registered architects practising architecture in Australia, and in fact it was impossible.

**MR WRIGHT:** Why? Because the board only has rolls for registered architects, as you call them, but there are a lot of architects practising out there who are not registered and choose not to be registered, for various reasons.

**PROF SLOAN:** No. No, I didn't ask that question. I wanted to know the number of registered architects practising in Australia, so - - -

**MR WRIGHT:** The board is not there to keep tabs on who is registered and who is practising. The board is there - - -

**PROF SLOAN:** So what is it for?

**MR WRIGHT:** - - - to keep a register of architects, people who have met the standards, met the qualifications, and are entitled to use the title "architect" under the conditions of the act.

**PROF SLOAN:** And that serves the public in what sense?

**MR WRIGHT:** As I've said, people can go to an architect, if he is a registered architect, and be sure that he has reached a benchmark level of training.

**PROF SLOAN:** Right, so that's - - -

**MR WRIGHT:** Whereas if you open that up to anybody you can get a first-year - I mean, you can get someone who is totally untrained calling themselves an architect, and offering their services to the public as an architect. And do you know how long it's going to take to sort that process out? Because it's going to happen. It's going to happen. There's no question.

**PROF SLOAN:** Well, hang on, they can offer their services now.

**MR WRIGHT:** Yes, but not call themselves an architect.

**PROF SLOAN:** Right. Have you got any more questions?

**DR BYRON:** I just wanted to follow up on that. To me, a lot of what this inquiry is about is the use of the word, the title.

**MR WRIGHT:** Yes.

**DR BYRON:** And we often get into these semantics but would you agree - or not - that there's a distinction between the very strict legal definition, somebody who is registered, and the sort of common usage, the way people out there in the suburbs use the word very carelessly and very generally.

**MR WRIGHT:** Yes, because people tend to use the term "architect" for all sorts of things, and this is what the board is trying to stop, or the act is trying to prevent; that people who use the term "architect" in connection with the building process are registered architects. Of course you get all sorts of people calling themselves computer network architects, but there are also recognised titles such as landscape architect, naval architect - - -

**DR BYRON:** Golf course architect.

**MR WRIGHT:** - - - whatever.

**PROF SLOAN:** And you have no problem with those?

**MR WRIGHT:** No. We have come to an understanding with them. There is no rule to stop someone using B(Arch) behind their name but they can't call themselves an architect, but they can certainly show the public that they have achieved a recognised degree. The board doesn't stop that.

**DR BYRON:** In some of the other states we understand that people have been prosecuted for saying "Diploma of architectural drafting" - - -

**MR WRIGHT:** Well, not in - - -

**DR BYRON:** - - - even though that's what's actually stated on their diploma.

**MR WRIGHT:** Yes, well, it hasn't happened in Western Australia.

**DR BYRON:** Okay. Good. But in some ways I'm reminded of something I read in the newspaper where McDonalds, the hamburger people, tried to prosecute Mr McDonald who owned a pharmacy and called it McDonalds Pharmacy. Now, in

my mind that doesn't apply in any sense - that the golden arches people are now running pharmacies, but they were trying to make a case that, "We own the word and nobody else can use it, even if it happens to be their surname." I think even the chairman of Clan McDonald in Scotland has been threatened, but that's another story!

**PROF SLOAN:** He may have had prior ownership.

**DR BYRON:** We are really coming down to who owns the use of a word, and what we're grappling with is, in a sense, has the horse bolted, in that "architect" has sort of escaped into common usage there, and there's all sorts of ways it's being used, and the boards are basically trying to defend an historic and very specific, much narrower, legally binding definition.

**MR WRIGHT:** No, I totally disagree because I think there is a general understanding within the public that when they talk about architect, and they are talking about building, that they know very clearly what they are talking about. Why do you think project home builders love to use the term "architecturally designed"? Why not say "building designer designed"? Why do real estate agents, when they're advertising a property, say, "Designed by such and such architect" or - even better - "such and such, award-winning architect"? Why not, "Designed by Joe Bloggs, building designer"? Because there's - - -

**PROF SLOAN:** Or, in Melbourne, designed by Alistair Knox, who's not an architect?

**MR WRIGHT:** Yes, well, fine, if they want to use that form of advertising. But the reality is, that's a one-off case. The reality is, open up the newspapers and you'll find that there is a great desire to use the word "architect" or "architecturally" or whatever, because it has a meaning and people perceive that to be a recognition of quality. If it's architecturally designed, it's got to be good.

**PROF SLOAN:** But these are already built, so why is the public being served with this kind of thing?

**MR WRIGHT:** No, I am just saying - we were talking about language usage and I'm talking about - - -

**PROF SLOAN:** I know, but I go back - why - see, in Britain there's no reservation over any of the derivatives, so the title "architect" is reserved but none of the derivatives are legally protected.

**MR WRIGHT:** Yes, but the registration council still exists in the UK. Why?

**PROF SLOAN:** Yes, but I mean - - -

**MR WRIGHT:** Why? No, answer the question. You've asked one question. I'm asking another. Why?

**PROF SLOAN:** Well, why? Because it was a serious - - -

**MR WRIGHT:** Why did the UK government decide to throw out the Warne report, which you refer to selectively? It threw it out and maintained registration. Why?

**PROF SLOAN:** Successful lobbying pressure by the architecture profession?

**MR WRIGHT:** No, because the UK saw that it was going to put them out of step with the rest of the world, which is exactly what's going to happen to Australia if the Productivity Commission is successful and the registration legislation is repealed. We will be orphans.

**PROF SLOAN:** It was seriously reformed, of course - the architecture registration system in Britain - and, as I said, the derivative is not regulated. Indeed, my whole hypothesis would remain on the table.

**MR WRIGHT:** Look, I've said - and, as you know, you are well aware - we have been trying to amend the acts to make them more user-friendly and bring them up to date because they were, I admit - our act was written back in the twenties, so, yes, it's well out of date, and we've been trying, but we've been trying unsuccessfully because of political intervention, and not because they think Architects Acts are not worthy or useful. It's just because of circumstances such as this sort of review which comes along and stops us in our tracks of our own review and our own amendments to our own act.

**PROF SLOAN:** Don't forget state governments agreed to the competition policy.

**MR WRIGHT:** Yes, and we had our own review under way. Why we needed a national one, I'm blown if I know.

**DR BYRON:** Well, we didn't ask for it.

**PROF SLOAN:** We don't know.

**MR WRIGHT:** Exactly. I don't know why it happened. It just seems a waste of taxpayers' money.

**PROF SLOAN:** Well, thanks very much for that, Brian. I understand you've got to get off to a board meeting.

**MR WRIGHT:** I certainly do.

**PROF SLOAN:** So thanks for coming along.

**DR BYRON:** Thank you very much for your time.

**MR WRIGHT:** Not a problem.

**PROF SLOAN:** We will now break for afternoon tea.

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**PROF SLOAN:** If we could resume the public hearings into the review of legislation regulating the architectural profession on 6 June 2000 in Perth. I now call on Kim Doepel. Is that how you say it?

**DR BYRON:** We'll put him at the end of the queue.

**PROF SLOAN:** We'll put him at the end of the queue. If we could now move and see if we've got Mr Gregory Cowan and Mr Stephen Parkin here. If you could, for the purpose of transcript, give us your name and associations, that would be most welcome.

**MR PARKIN:** I'm Stephen Parkin. I'm here as a layperson and in the community interest.

**PROF SLOAN:** Right.

**MR COWAN:** My name is Gregory Cowan. I am also a concerned member of the public and I'm a registered architect, but I'm not a practising architect under the commission's definitions. Good afternoon, everyone. We are here to express our deep concern about the Productivity Commission's recently-published draft report of the review of legislation regulating the architectural profession. We believe that the commission has taken an irresponsibly narrow view of economics, as purely fiscal, rather than promoting competition and productivity as ways of promoting high quality in architectural practice. We believe that the premise binding the commission's point of view is founded upon the basis that architects and architecture and their practices and products are defined by a fiscally-dominated consumerism, rather than a basis of promoting leadership and excellence in understanding the far-reaching cultural value of the built environment.

We believe that the commission has not demonstrated that the present architects legislation is restrictive to competition and, although it can be improved, has ignored the significant benefits of legislation for promoting architectural culture. It can be argued that the latter currently clearly outweigh the legislative costs for consumers and users of the built environment and we have tabled a report to the Productivity Commission, which consists of 54 numbered points and we would ask that the Productivity Commission restrain all of its discussion to those numbered points and not to raise any other conjectural matters.

**PROF SLOAN:** You can try and do that, but you won't succeed.

**MR COWAN:** So we would ask that the commission please respond to the 54 points that we have submitted and to clarify those and to raise any issues that they would wish to discuss in those numbered points.

**PROF SLOAN:** Right, okay. We will look at your submission in due course.



**MR COWAN:** Am I correct that you have not read the report that we have submitted? We submitted it one week ago.

**DR BYRON:** I've read your submission.

**PROF SLOAN:** Yes.

**MR COWAN:** So has Prof Sloan also read the submission?

**PROF SLOAN:** Yes.

**MR COWAN:** In its entirety?

**DR BYRON:** Yes.

**PROF SLOAN:** There are 16 pages?

**MR COWAN:** That's right. 54 points and 32 footnotes.

**PROF SLOAN:** Yes.

**MR COWAN:** Right. So you've read all of them and you're familiar with all of them?

**PROF SLOAN:** I think the purpose of this hearing, and indeed inquiry, is for you to be making a submission to us, but not for me to be answering your questions.

**MR COWAN:** We have made our submission in writing and I can read it out, if you like, but we won't be entering into any other discussion based on some conjecture or other dinner-table conversation.

**MR PARKIN:** Our understanding was that the commission would have points of clarification raised, based on what we've submitted to date, so we'd like to restrain the discussion to those points.

**PROF SLOAN:** I suggest that you actually step down immediately, because you're actually in breach of the act because a person appearing as a witness at a hearing must not refuse or fail to answer a question as required by the chair or to produce - well, you presumably don't refuse to produce a document, so we can - - -

**MR COWAN:** What question would you like us to answer?

**PROF SLOAN:** No, I've got your tone, so thank you very much.

**MR COWAN:** What was the question that you asked us to answer?

**PROF SLOAN:** You're suggesting that we have to answer your questions.

**MR PARKIN:** We've asked you to do that. We've asked to restrain the discussion to our submission, which is in writing.

**PROF SLOAN:** Okay.

**MR COWAN:** Can I start with number 1 and you can respond to them one by one?

**PROF SLOAN:** No. Thanks very much for your contribution.

**MR COWAN:** The title of the review is illegal and/or misleading and should be changed.

**PROF SLOAN:** Excuse me. Thank you very much for your contribution.

**MR COWAN:** Would you please respond to our submission.

**PROF SLOAN:** No.

**MR COWAN:** Why not?

**PROF SLOAN:** Because you're acting against the intent of the act.

**MR COWAN:** Which act?

**DR BYRON:** The Productivity Commission Act.

**MR COWAN:** In what point?

**PROF SLOAN:** I'll read it out again, and it's section 50:

A person appearing as a witness at a hearing must not refuse or fail to answer a question as required by the chair.

You're suggesting that I must answer your question, you are therefore not complying with that section of the act.

**MR COWAN:** We have not refused to answer.

**MR PARKIN:** You haven't asked a question yet.

**PROF SLOAN:** All right. I've got no questions to ask you, so unless you want to read out something which does not involve questions of the chair - and you might want to make yourselves aware of this, that it's also an offence under the act to give false or misleading evidence or information.

**MR COWAN:** We know that, thank you. Let me just summarise some of the gist of our submission. We believe that the draft report is irresponsible and inept with respect to the way it has applied research methods, both quantitative and qualitative. It is prejudiced and blatantly dismissive of submissions which have been received in public consultation. The draft report is unfair and biased and irresponsible in hastening prematurely to its findings.

**PROF SLOAN:** Have you got any substantive points to make?

**MR COWAN:** Yes, we have, there are 54.

**PROF SLOAN:** Most of those are not substantive.

**MR COWAN:** Which one would you like to address?

**PROF SLOAN:** I wouldn't like to address any.

**MR COWAN:** Okay, I'll continue.

**PROF SLOAN:** I'd rather you not. We'll take this as read then. Have you got anything that you'd like to add?

**MR COWAN:** I won't take it as read, because I don't believe that you have read it.

**PROF SLOAN:** I have read it. Can I just go through the process. We are here to ask you questions, right. You're not here to ask us questions and you are bound by the terms of the Productivity Commission.

**MR COWAN:** I'm about to summarise our submission.

**PROF SLOAN:** All right, if you could do that in non-point form, in a general paragraph and leave it at that.

**MR COWAN:** I've just got three more points to make in our general comments on the draft report. The draft report is blatantly dismissive of professionally-prepared guidelines for unifying architects legislation nationally and it is inconsistent and biased in its treatment of opinions and conjecture.

**PROF SLOAN:** No, this is just subjective. Have you got any substantive, objective - - -

**MR COWAN:** Yes, they're in the 54 points, so this is just a summary.

**PROF SLOAN:** If you're going to read out the 54 points, we'll take it as read.

**MR COWAN:** I'll talk about specific points.

**PROF SLOAN:** Why are you interested in this?

**MR COWAN:** Because we are concerned members of the public and I'm a registered architect and I believe that there is nothing in the draft report to show that the findings should be sustained.

**PROF SLOAN:** Right, okay. So that's your opinion. Thank you.

**MR COWAN:** So I'll now go through the points.

**PROF SLOAN:** No, I don't want you to go through the various points.

**MR COWAN:** We would ask that under the terms of the review, the commission actually reviews and responds to each of our numbered points.

**PROF SLOAN:** I don't want to keep repeating myself. That is not how the processes of the commission work.

**MR COWAN:** So how do we determine that you've considered our submission?

**PROF SLOAN:** It's actually not up to you to determine that at all. You can have your private opinion and you're welcome to it, but it's not a matter for public comment.

**MR COWAN:** Is it this government's responsibility, through you, to respond to my submission?

**PROF SLOAN:** Go to the government.

**MR COWAN:** I will. I'll take that transcript, thank you.

**MR PARKIN:** So you don't have any points of clarification after reading our submission? You have no points of clarification required?

**PROF SLOAN:** It seems to me that you're being a bit unclear as to what your real interest is and I find that - - -

**MR PARKIN:** Our interests are - well, we've looked at the draft document that you've prepared. We've looked at it and we've analysed its content. We've reviewed its objectives and the only conclusion that we could come to, based on what we see in the report, was that it's inconclusive with respect to the deregulation of the architects legislation, but it possibly indicates that there is need for reform of the legislation as it stands.

**PROF SLOAN:** Fine, thank you.

**DR BYRON:** Good, that's helpful.

**MR PARKIN:** Can I just clarify that? There are no points of clarification that you require from us with respect to our submission?

**PROF SLOAN:** No.

**MR COWAN:** And the entirety of our submission is taken as read and you would take that as perfectly clear?

**PROF SLOAN:** Yes, and it will appear on the Net.

**MR PARKIN:** Thank you very much, and we would state that we disagree with the findings of the draft report.

**PROF SLOAN:** That's absolutely your right.

**MR COWAN:** Thank you.

**MR PARKIN:** Thank you.

**PROF SLOAN:** I now call on Kevin Palassis. Could you state your name and your affiliation for the purpose of the transcript.

**MR PALASSIS:** Kevin Palassis. I'm an architect in private practice, a member of the Institute of Architects and a registered architect.

**PROF SLOAN:** Thank you.

**MR PALASSIS:** I did have a prepared statement to make here, but on the basis of how the previous architects or the previous people have been dealt with I think it's an affront to the community as to what's going on here today. I think this is a bit of a kangaroo court. You are not interested in listening to other people - it's clear from your report - and I don't believe I should waste my time presenting anything to you at this stage.

**PROF SLOAN:** I call on Mr Chris Thompson. If you could state your name and affiliation for the purposes of the transcript.

**MR THOMPSON:** My name is Christopher Thompson. I'm a partner in the practice of Thompson Ong and Associates, architects.

**PROF SLOAN:** Thanks very much. Would you like to make a statement?

**MR THOMPSON:** I forwarded earlier today a submission, a copy of a submission, which - - -

**PROF SLOAN:** That's in addition to the submission you've already made.

**MR THOMPSON:** It's in addition to the submission I made in December, that's correct.

**PROF SLOAN:** Yes, I've got that.

**DR BYRON:** This is the one we got just before the tea break.

**PROF SLOAN:** I won't have read that but, yes, okay.

**MR THOMPSON:** The main issue I wanted to raise was the difficulty that's being experienced in what is on any deregistration process of removing the formal qualification for architect. It's got certain legal connotations rather than just professional connotations. Now, as you may gather I'm a private practitioner. I have been in practice with Marjorie for nearly 30 years in Perth; before that I worked for various people in Sydney. My understanding of my status as a result of that is that I go to court frequently for example as an expert witness. It's my qualifications that make me the expert witness. It's supplemented by my experience, but essentially my qualifications are what make me an expert when I give evidence, and I frequently give evidence in various tribunals wearing my professional qualification of architect.

**PROF SLOAN:** So this is beyond your degree. You don't actually - is that the point you're making?

**MR THOMPSON:** No.

**PROF SLOAN:** This is as a registered architect.

**MR THOMPSON:** That's one of the things I've raised in my statement. I see coming out of any dropping of the deregulation enormous problems for graduates in that there will be no formal identification of them as architects as such, the present process of supervised work experience and an exam in professional practice, which I would have thought was of inestimable value to the general public, community at

large, to know that these people have at least achieved a standard of professionalism that means that they can handle the contractual and the numerous non-design elements that architects are responsible for.

If this goes, this new generation that are going to be graduating are then going to be faced with a situation where they will no longer be able to be identified with their profession. They will be just identified as someone who draws buildings. Now, I thought that sort of imagination or lack of imagination had gone out when I was a schoolboy. I went for IQ examination-type things and the person at the end said, "He likes to draw. We'll make him an architect." Well, I mean, quite frankly that - - -

**PROF SLOAN:** They were right, weren't they?

**MR THOMPSON:** - - - lack of intelligent approach to what an architect does and is expected to do and what is the result of the professional training, the academic training, the professional experience, makes a non-architect quite frankly just that - a non-architect - and there should be, I believe, a differentiation.

In my statement there I've indicated that I certainly see weaknesses in the present registration system and this is very much because it's "one ticket, you're in for life", but I must point out though of course even to have reached that point of having the one ticket you could have spent up to 10 years getting ready for it. Just as a medical specialist spends up to 10 years getting ready to become a specialist; so do architects. I see there is a need for an ongoing assessment of some kind or proof of qualification and that's generally done, I would have thought, through some form of professional development on an ongoing basis.

**PROF SLOAN:** Does it have to be in the hands of the government though?

**MR THOMPSON:** I'm not suggesting it be in the hands of the government in the sense of the government - - -

**PROF SLOAN:** A statute - - -

**MR THOMPSON:** - - - sitting down and setting exams. The government in the various state boards, for example, have managed to come to some agreement about commonality of the exam for registration for example; it's a uniform exam across the country. I see no difficulty in that having been achieved and it's obviously been achieved with assistance from other bodies such as the institute.

**PROF SLOAN:** No, I think what I'm saying is - I hear what you say. You're saying that a person with this kind of education, training, assessment, provides valuable skills. Is that a good argument for government statute based registration?

**MR THOMPSON:** I think if that identification then gives the public, the general public, an expectation of something, and I believe if they've gone to someone who is professed to be an architect they're expecting something better - - -



**PROF SLOAN:** So when the public - - -

**MR THOMPSON:** - - - than if they go to someone who's not an architect, and on that basis I would think that if they're going to use that title and that sort of thing the architects themselves need to prove the point that they are making, sure that they are providing excellence in some way or other. If it requires them to do some form of reaccreditation or whether it's simply attending X amount of professional practice exercises, whatever it takes - and I'm certainly not sitting down here and writing criteria for what exactly it should be - I believe there should be some form of reassessment or renewal or upgrading or continuity of our professionalism, just as applies to other professions.

**PROF SLOAN:** So when you go and see a chartered accountant, do you not have expectations of the service that that person will provide.

**MR THOMPSON:** Yes, I know if I go to someone who's a CPA, I know for example that the CPA has very rigorous requirements for keeping that designation, similarly with the other - - -

**PROF SLOAN:** But the government is not involved in that at all.

**MR THOMPSON:** I beg your pardon?

**PROF SLOAN:** There is no act underpinning that.

**MR THOMPSON:** I realise that, but there - - -

**PROF SLOAN:** So in other words you can get this outcome without - - -

**MR THOMPSON:** But there is at the moment at least three bodies that designate people to be accountants - and I don't necessarily think that's a satisfactory thing either, because - - -

**PROF SLOAN:** Arguably it's a good thing because there's some competition and it's actually very - - -

**MR THOMPSON:** You mean competition in terms of qualification? I find that rather an unusual description.

**PROF SLOAN:** If you go to FNIA for example, which is the low end, you know you'll get a bookkeeper; if you go to a chartered accountant you know what you'll get. So there's some quite clear market differentiation by those different forms of accreditation.

**DR BYRON:** The other consequence that can come out of that is that each of them

is very jealous of the reputation of their particular "brand", if I can use the word, and therefore they're very diligent in culling out of their ranks anybody who might detract from the reputation and the public credibility of their particular accreditation. I think we're agreeing with what you're saying about the differentiation and there needs to be highly credible accreditation that clearly enables consumers to distinguish - people at the top end of the market can have great skills and excellence and all the rest of it and probably, you know, corresponding prices, and people in the middle and all the way down to the other end, who will give you lousy service and overcharge for it, whatever. People need to know what they're getting. There should be a clear visible accreditation system.

**MR THOMPSON:** I couldn't agree more.

**DR BYRON:** Now, the question that we have is how good is reservation of title in doing that or is there another way that could provide the same or better information that doesn't involve government statute? That's the bottom line of the question that's put to us. Yes, there should be accreditation but does it have to be done by a government-run board or is it possible that accreditation run by somebody else could do it?

Now, with the engineers they've got their national professional engineer register and they tell us there are three or four other groups or organisations that are also accrediting professional engineers and claiming that their group have got high-quality skills, expertise, experience. So there's now, if you like, a bit of competition between which accreditation agency is the most credible and that's what really puts the acid on them to make sure that when they accredit somebody and put their brand on him, he or she really does live up to the expectations, and they're quite diligent in culling out anybody who's going to damage their reputation. Like the CPAs, they defend it very strongly.

**MR THOMPSON:** I have no objection to people culling out those people that are harming their profession and I, as a town-planner, had the sad resolution of actually moving the motion to expel a person who had been a fellow of that institute. He'd also been a fellow of the institute of architects - that was Mr Ritter. These things happen and I would think any profession or body worthy of its title would require those sort of standards of behaviour from its members. I find the concept of competition between qualifying bodies a little bit eccentric. I can understand competition when there is some commercial advantage from it, but I can't see that there is a commercial advantage between different qualifying bodies. I would have thought that they were going to confuse rather than help a situation.

**PROF SLOAN:** There's a bit of a layer of that already though, isn't there - like, there are heritage architects? Maybe not so much over here, but certainly there are sort of differentiations.

**MR THOMPSON:** I'm a member of a small practice group. Well, that's just a group, a special interest group, that is sponsored by the institute. It doesn't mean that

I - - -

**PROF SLOAN:** No, I think this heritage architects group is quite serious.

**MR THOMPSON:** I've done heritage architecture programs. I don't necessarily hang up my shingle to say that I'm a member of the Heritage Architects Association. Sure, I belong to the National Trust and various bodies of that interest, but I don't hang up a separate institutional symbol for that because that is one of the skills that I have in my professional life. I didn't think it was necessary to distinguish it. I certainly call myself a town-planner as well because I am qualified as such, and this is why the reference is here in the report to the Planning Institute. I'm well aware, and I can remember participating in a referendum at one stage where the members overwhelmingly voted against any form of registration and I was one of the ones that voted against it, I can assure you, for the simple reason that the Planning Institute is structured to carry out a very real and I believe independent role.

I think in the area we're talking about with architecture we need independence and we need independence from the profession, quite frankly. I think the present boards - this is one of the difficulties with the boards - they certainly have non-architect members; this state does for example - Mr Packer is doing that role. I believe there should be - - -

**PROF SLOAN:** Not Kerry.

**MR THOMPSON:** No, definitely - - -

**PROF SLOAN:** No, he'd be pretty busy.

**MR THOMPSON:** He's more in the other end of the architectural - he tends to commission rather than commiserate.

**PROF SLOAN:** He's not in need of protection either.

**MR THOMPSON:** But you raise in your report some of the UK examples of the registration process, the disciplinary process, and the idea of having a majority of non-architects on those bodies strikes me as being perfectly proper. I believe, for example, the legal profession should be going through those sort of things in its disciplinary procedures, and numerous other professions. Those that are worth their salt, quite frankly, would have no hesitation in doing so.

I'm sure the only reason these sort of things don't happen in Western Australia and the other states is not from the activities of the boards that we've had, but from governments of all persuasions. I know that the board here, for example, has had programs up to amend and modernise the act in this state, and for changes of minister, changes of government, it just kept rolling on and it has never actually managed to get to the parliament.

**PROF SLOAN:** It would seem though that some of your suggestions in this recent submission are in fact resisted; for example, when I suggested that there would be some independent disciplinary procedure. I think actually that has now happened in Queensland where they have - - -

**DR BYRON:** Yes.

**PROF SLOAN:** They see the role of the board as inherently containing a conflict of interests and that they need to - which doesn't mean that architects are not involved in acting as expert witnesses, but that system needs to have - - -

**MR THOMPSON:** It needs to be seen to be independent.

**PROF SLOAN:** Yes.

**MR THOMPSON:** I think the independence is more to the point.

**PROF SLOAN:** Yes.

**MR THOMPSON:** I mean it's quite possible to have an independent group of architects doing it, but it isn't seen by the general public.

**PROF SLOAN:** Exactly.

**MR THOMPSON:** I think the processes need to be very open. At the moment your report certainly indicated that the processes frequently are complicated, the public doesn't know very much about them. It doesn't just apply to architects. This applies to all sorts of occupational groups, whether they're government-controlled or not government-controlled. We're having a judicial inquiry at the moment into a different body, where similar sorts of problems have occurred.

**PROF SLOAN:** Yes.

**MR THOMPSON:** I think by keeping it open, and the papers I've presented to you - I'm presenting what my partner and I have thought on the matter. But I know that many of my colleagues would agree with me that we have nothing to fear from having a wider spectrum of people in charge of registration and involved in the disciplinary process. But the thing is that I think we need that body.

**PROF SLOAN:** Well, indeed, it seems to me that it may significantly strengthen it, because otherwise without that transparency you're always open to the suggestion that this is a case of just self-serving of the profession.

**MR THOMPSON:** I couldn't agree more. The old-fashioned club is way beyond us. I have seen such things in other countries where the professional institute becomes the means of becoming a member of your profession, and if you cannot get

into there you cannot get into the work stream. I mean it can be quite vicious, counterproductive and certainly unhelpful to the general community. I'm suggesting that what we should be having is something that is clear, that is open but is official, that certifies us and gives us a clear status. I have indicated there that I believe that things such as some form of professional development; I would think people in private practice, or partial private practice, should be required to have a professional indemnity policy. Things of that nature, I think, are the prices that architects should have to, and I believe are prepared to, pay for the privilege, and it is a privilege, of having that specific status.

**PROF SLOAN:** You mentioned town-planners. They are a self-regulated group.

**MR THOMPSON:** Well, there is no formal regulation as such. I can speak as someone who has been a president of the state division of the Planning Institute, as a member of the Planning Consultants Association and an associate member of the Local Government Planners Association, that all three groups which are accredited by the RAPI have problems with fringe dwellers, as we call them.

**PROF SLOAN:** Right.

**MR THOMPSON:** I think this applies to a large number of professions that are evolving. I mean, we can go as far as medicine. We're starting to get the naturopath, acupuncture and things that we would regard as fringe dwellers to the - these bodies are coming.

**PROF SLOAN:** Don't we have to be careful if there's a legitimate demand for those sorts of things?

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

**PROF SLOAN:** As long as they are not causing harm.

**MR THOMPSON:** I think we should be aware that those peripheral groups are there, but are they involving themselves with the core activity of the particular profession or have they reached the stage, as the planners did nearly 50 years ago, of being prepared to say, "Look, we are different to architects, we're different to engineers and we're different to surveyors. We are town-planners." That's how the Planning Institute established itself. It has taken nearly 50-odd years to reach the status now where it is recognised as the sort of qualifying body. If you are eligible to be a member, you don't have to be a member, you have reached a certain professional status. Now, the Institute of Architects certainly doesn't represent all architects. Your figures suggest about half of the architects. The word I have heard is that it can be even less than that.

**PROF SLOAN:** Again, hard to tell.

**MR THOMPSON:** That's right. You've sort of grouped in students and graduates

and all sorts of things in the numbers, so that it in itself is not at this stage an accrediting body. It's providing a range of services which go beyond simply accrediting.

**PROF SLOAN:** You say that, although there's really quite a lot of - there's a lot of overlap, for example, in accrediting university courses.

**MR THOMPSON:** They duplicate rather than overlap though, if I might suggest, professor.

**PROF SLOAN:** Yes. Well, in some states they actually have combined committee with the board. So that's actually - it's a little fuzzy.

**MR THOMPSON:** Yes, it varies from state to state. My understanding is that the relationship between the board and the institute in this state is extremely warm, close and cooperative.

**PROF SLOAN:** We're in the same building.

**MR THOMPSON:** Are they here? They're in the same building. One is a landlord of the other, or the head tenant.

**PROF SLOAN:** In some of the other states they fight.

**MR THOMPSON:** Again, I understand their differences, and these come under the heading of people with agendas, I'm sure. I can't speak for the other states. My experience has principally been here.

**PROF SLOAN:** That's very useful, Chris. Is there anything else you would like to add?

**MR THOMPSON:** No, I think you've got it, what I need - - -

**PROF SLOAN:** That's good. That was very clear. Thanks very much for that, and thanks for coming along.

**MR THOMPSON:** Thank you very much indeed. I hope you do the right thing by us rather than shafting us, because as a profession I've been in it now for - - -

**PROF SLOAN:** Play the ball, not the man.

**MR THOMPSON:** I've been in there for over 30 years and it's a profession I'm still proud of after all that time.

**PROF SLOAN:** Good. Thank you, Chris. Now, Matt, have we got any of our stragglers?

**MR STUBBS:** No, I don't think so.

**PROF SLOAN:** Okay. Well, I think on that point we might call the proceedings to a halt and thank everyone for their participation. The caravan - is that the term?

**DR BYRON:** The caravan moves on and we will be in Adelaide later in the week and in Brisbane on Friday. So thank you very much.

AT 4.59 PM THE HEARING WAS ADJOURNED UNTIL  
THURSDAY, 8 JUNE 2000

## INDEX

	<u>Page</u>
ROYAL AUSTRALIAN INSTITUTE OF ARCHITECTS, WESTERN AUSTRALIA CHAPTER: HARRY SCHUBERT	3-19
KENT LYON ARCHITECT: KENT LYON	20-29
HAMES SHARLEY: WARREN KERR LAURIE HEGVGOLD MARTYN WEBB	30-54
COX HOWLETT AND BAILEY WOODLAND: GREG HOWLETT	55-61
TONY BRAND	62-73
SASHA IVANOVICH	74-81
DAVID BEETSON	82-90
MORLEY DAVIS: MERRYN VAN BREMEN	91-102
ROBERT NICHOLSON	103-109
ARCHITECTS BOARD OF WESTERN AUSTRALIA: BRIAN WRIGHT	110-126
GREGORY COWAN STEPHEN PARKIN	127-132
KEVIN PALASSIS	133
THOMPSON ONG AND ASSOCIATES: CHRIS THOMPSON	134-142