

Repealing the Architects' Acts

A Sociological View

Submission to the Productivity Commission's Review of
Legislation Regulating the Architectural Profession

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Who the Author Is

I'm one of the world's few architectural sociologists. I have a Bachelor's degree and a PhD in architecture, and a Master's degree in sociology. I am not a registered architect in Australia, nor a member of the RAIA.

My latest work is *The Favored Circle: The Social Foundations of Architectural Distinction* (MIT Press, Cambridge, MA: 1998).

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Declaration of Interest

I believe that is important that the Commission be aware of any interest I may have in the Commission's work.

People are always good at holding forth that the public interest is best served by serving best their *own* interests.

Let me therefore state that I do not work in the construction industry or the architectural occupation. Neither my career prospects, nor my income—in the short or long term—shall be in the least affected by any decision made by the Commission.

This Submission

This submission is intended to provide the Commission with a sociologist's way of looking at professions in general, the architectural profession, and the functions of the Architects Acts.

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Background: The Misleading Concept of 'Profession'

The *Issues* paper in a sense prejudices matters by adopting an image of the 'professions' that serves them well and denigrates other occupations. If one simply labels, as the *Issues* paper does, a 'profession' as a sort of occupation that by definition does a better job than other sort of occupation, the case is closed before it even opens.

The Anglo-American 'Profession'

It comes as a surprise to most English-speakers that the seemingly universal concepts of 'profession' and 'professional' are actually Anglo-American inventions of the late nineteenth century. The contemporary definition is much like that quoted from the Australian Council of Professions on page 5 of the *Issues Paper*. As they define it, a profession:

- Is a coherent body of individuals, united by the sort of work they do.
- Has ethical standards..
- Acts with altruism toward the public, rather than just for money or other rewards.
- Undergoes long, formal education in a university, providing a rigorous and extended theoretical basis.

As the sociologist Andrew Abbot¹ explains it, professions in this view are characterised as organised bodies of experts who apply specialised and esoteric knowledge to the cases brought to them by clients. This knowledge is acquired by a long period of formal training in an elaborate educational system. Clients' interests are safeguarded by a code of ethics, more or less regulation by the state, and a modicum of altruism presumed not to exist in lesser occupations, whose members were taken to be motivated by more mercenary concerns. The empirical diversity of professions is explained by assuming a continuum of professionalisation, with occupations at various points of this continuum.

'Profession' in Other Countries

It is now generally accepted by sociologists that this is a parochial conceptualisation, one strictly limited to the English-speaking world. Europeans have difficulty understanding the whole concept. In German, for example, one may talk about *freie Berufe*, in which one refers to self-employed practitioners, or about *akademische Berufe*, referring to the old university-educated professions of the clergy, divinity, law and high-school teaching, but there is no single phrase for our 'profession'.² The word is used in other languages strictly as a technical sociological importation.³

In our tradition professionals identify themselves by what work they do, and their status and prestige flows from their membership of this corporately organised occupation. Non-Anglo-American individuals whom we would label professionals often do not think of themselves as such. In Europe, in general, status is bestowed by graduating from one of the elite state universities or schools, regardless of what one has specialised in. One then identifies with the entrepreneurial class if one is self-employed, or as having a certain rank in the civil service. The content of one's work (designing buildings or healing the sick) is less important than who one does it for (the state or individuals).⁴ In the Benelux countries, for example, an architect must register not so much as an 'architect' *per se*, but as a principal, salaried or government employed, and must inform the authorities if his or her status changes.⁵ An Anglo-American is an architect first and foremost, but a European is a graduate of such-and-such a school and member of a certain class, *then* an architect.

Our concept of grouping certain occupations together as ‘the professions’ makes less sense in this mentality.

It also makes less sense when viewed historically. Modern Anglo-American professions arose from groups of people doing similar work in a capitalist market-place. Group identity is centred on common work. The arena in which they battled for a right to monopolise certain work was ultimately that of public opinion. The only part played by the state was to sanction and embed in law a monopoly on that work. The European professions mainly arose from the civil services of the industrialising nations in the early nineteenth century. Their closest models were the aristocracy and the structure of the military. In France and Germany until the middle of the century, most professionals—doctors, lawyers, engineers—were employed by the state and organised into bureaucratic hierarchies. Identification was based on one’s employment as a civil servant, and on the fact that one had graduated from an elite state school, such as the French *grandes écoles*, not on the work one did. In France, a state engineer who graduated from the *École Polytechnique* did not think of himself as having much in common with an engineer in private practice who had not.

The notion of a state profession is alien to Anglo-Americans. Only teaching comes close, and though they are usually government employees, few teachers would actually think of themselves as in the *service* of the state.

In Germany, the organisations we believe to be fundamental to professional identity, associations and societies defined by occupation, did not appear until the 1870s. The first national organisation, the *Bund Deutscher Architekten* (BDA), was not formed until 1903, about eighty years after its English equivalent.⁶ Today, what we would regard as the one ‘profession’ is divided in two, the high-status civil service architects tending to belong to the *Deutscher Architekten*, an elite organisation that requires sponsorship by an existing member for entry, while the lower-status architects in private practice belong to the *Vereinigung Freischaffender Architekten* (VFA).

In Italy architecture functions more as a mechanism for entering a cultural elite than anything else.⁷ Where the United States and the United Kingdom have 120 to 150 architecture students per million population, Italy is educating a staggering 1,700 per million. The 97% or so of architecture graduates who never enter practice no more think of themselves as belonging to a profession of architecture than a Bachelor of Arts graduate in the English speaking world thinks of himself or herself as belonging to a profession of ‘arts’.

From the first, European professions were occupations defined and controlled by the state. Those whose training was the ancient province of the *grandes écoles* in France or the universities in Germany, and whose members were destined for the service of the state, had and have the same sorts of social status that the Anglo-American professions have. Those trained by the provincial universities or the German polytechnics did not and do not.

Ditching the Concept of ‘Profession’

One sociologist of the professions, Eric Freidson, described the Anglo-American concept of ‘profession’ as the folk-concept of professions, since the description so closely matches the professional’s self-image and, indeed, is almost an apologetic for it, acting simply to regenerate common wisdom.⁸ I would also add that it is particularly sanctimonious and self-serving, attributing to certain occupations a moral superiority over others because they “serve society” while the rest of us just grubbed for money.

To talk of simply the ‘profession’ is then to ignore several important problems. First, there are substantial differences between the same occupation in different countries. The whole way of conceptualising the occupation may differ. Further, the content of the work handled by the occupation may be strikingly different.

What Is an "Architect"?

Architecture's jurisdiction varies from country to country, and hence its relationship to other occupations in the building industry also varies. In France, architects rarely prepare construction drawings, and may never set foot on site. In Australia and other Commonwealth nations, the measurement and costing of large buildings is conducted by quantity surveyors, an occupation totally independent of architects. Norwegian architects also invariably handle town-planning. Not only does the division of labour vary, but also the sort of client handled by the architect. In Italy, almost all small-scale construction is handled by the *geometria*, whom we would consider surveyors, and the division of labour between architects and civil engineers is very indistinct.⁹ Spanish architects deal with highly technical buildings, such as industrial plant, that English-speaking architects tend to leave to civil engineers. Similarly, architects in the Benelux countries produce technical drawings that would be handled by engineers in the UK or USA. The jurisdictions covered by architects, civil engineers, landscape architects, interior designers, project managers, planners and facilities managers vary considerably from place to place.¹⁰

That the term 'architect' is not a simple label easily transferred from one nation to another can be seen by examining data for the numbers of architects per capita.¹¹ In some countries we find extremely high numbers: Japan, Italy and Greece each have over 1,300 architects per million inhabitants. Is there really that much more building design going on there than in, say, Chile, the UK, France, Australia or Hungary, each with around 500 architects per million? Could Canada, Poland, Russia, and Korea—all of whom have less than 300 architects per million—really find work for all those other architects if their numbers were quadrupled to Italian proportions?

Second, within the one country professions exhibit diverse patterns. The folk-concept of profession does not help us explain why architects who never went to university have the same status as those who did. Or, in the English-speaking world, why is the architect who only does small-scale residential work thought of as belonging to the same profession as one who only does large commercial, when in Italy they are different occupations?

Is Architecture like other 'Professions'?

English-speakers take it for granted that for granted that all professions are more alike than not. But are they? Structural engineers really make a living by producing the certificates of safety that the state demands for most structures, and the everyday general practitioner earns his or her way mainly by issuing temporary licences to members of the public to enable them to buy drugs. The specialist doctor spends his or her life in hospitals, huge concentrated work-sites, in which he or she commands the daily services of a large number of practitioners in other health occupations. Do any of these *modi operandi* bear much resemblance to the way architects work?

Any attempt to study architects in terms of the usual concept of profession has several defects. I argue that it is best to abandon any analysis of architecture just in terms of 'profession', and hereafter the word will be used to simply denote the body of practitioners, without implying any of the connotations of the old Anglo-American sociologizing about it.

Who the RAIA Represents

The *Issues* paper on page 3 describes the RAIA as "the national body representing architects".

I do not think this is a reasonable description. Even the statistics on page 5 of the *Issues* paper belie this: at least one-third of Australia's registered architects do not belong to the Institute. Moreover, there are a large number of people who have never bothered to register as architects, but who carry out architectural services. Indeed, there *must* be a large number of such people, otherwise the RAIA would not be so keen to restrict competition by strengthening the various Architects Acts.

How many such individuals there are is difficult to determine. We can take a guess by noting that the Australian schools graduate about 500 people each year. This is about three times the number of registrations that occur each year, so quite a lot of individuals are not bothering to acquire registration, even given the time lag between graduation and registration. Given this, the RAIA membership probably represents somewhat less than one-half of all those offering architectural services.

Moreover, professional institutes—in all fields—act as surrogates not for the occupation as a whole, but for the larger and more powerful firms. I don't mean to single out the RAIA here. It is a simple fact of professional life. All occupations disguise the fact that they consist of both employees and employers, and pretend to themselves that the interests of both are identical, usually by invoking moral calls to some higher 'professionalism'. The Institutes always represent the employers.

As an example, I quote Peter Gargett, RAIA National Past President, speaking in 1996:

“But for obvious reasons, [the RAIA] cannot take sides on industrial disputes between different sections of the profession—such as the current notice of demand to many employers from APESMA [Architects Branch of the Association of Professional Engineers, Scientists and Managers] on behalf of employee architects.”¹²

Since *employee* architects grossly outnumber *employer* architects, the RAIA here effectively denies that it supports the majority of its own membership!

Moreover, the RAIA represents particular sorts of employers, namely those with large numbers of employees. This effect is more significant in architecture than in other occupations, since the seller of architectural labour has far less power compared to the buyer of his or her services than, say, the seller of medical labour has. The key indicator here is salaries: low salaries denote weak seller power.

What the Architects Acts Do

The function of the Architects Acts is to restrict competition (a) from other occupations and (b) within the occupation.

This acts mainly in favour of large firms.

Historically, in the English-speaking world, pressure for the state to legislate to regulate an occupation has come from either society at large, or the occupation itself. In the past century and a half, the period in which the professions were forming, the pressure for regulation has rarely come from society: in almost all cases the desire for state regulation has originated with the occupation.¹³ The justification has always been, of course, that the public must be protected from incompetence: this accords with the professional's image of him or herself as an altruistic benefactor.

What Is Bad Architecture?

In this regard, architects face a particular difficulty. It is often impossible to determine just what architectural incompetence amounts to. Most people can tell when a *builder* is inept, but the matter of architectural ineptitude is a moot point. Within the field, architects often argue as to the quality of a building, whether it is successful or a disaster in aesthetic terms. Moreover, their assessment of the success of a treatment (building design) is often at variance with the assessments of others. The supposed experts cannot agree, and the public often cannot agree with the experts. In such a situation it is little wonder that architects design so little of the built environment.¹⁴

The Architects Acts do not protect us from bad architecture. If even the occupation itself cannot work out what *good* architecture is, how can we possibly be protected from *bad* architecture? Who can legislate good taste?

In one famous study, Robert Gutman pointed out that some of the buildings that architects hold to be the greatest of the century are loathed and despised by their inhabitants.¹⁵ In my own city of Sydney, the 'Toaster' development at the Quay; and Blues Point Tower, by Australia's most famous architect; are all loathed by the public, and the subject of great controversy in the profession.

An Occupation Under Threat: How Architects Restrict Supply

Occupations agitate for state regulation when they are flooded with entrants. In all English-speaking countries, persons with architecture degrees actually working in architecture are not the most highly paid of professionals. The occupation must therefore act to restrict supply so as to maintain higher prices for its services.

There are two principal ways it can do this. One is to lengthen the time it takes to acquire an architectural qualification. At present in Australia, an architecture degree sufficient to satisfy the various Boards is five to six years. Then another two years to gain 'experience'. The Boards have also acted to cut off the various potential shortcuts specified in the Acts: it is now extremely difficult to gain entrance to the occupation in the sundry 'experience' or 'deemed to qualify' provisions of the Acts. Only a full university education is required, they say, in spite of the many thousands of *currently* practising architects who do not have such an education.

An Occupation Under Threat: Declining Importance and Jurisdiction

The other way to restrict supply is by excluding competitors. In the past twenty years those individuals labelled as 'architects' have seen many of the functions they were used to providing being taken away from them. Today we have facilities managers, contract managers, interior designers, interior 'architects', urban planners, style consultants, project managers and a variety of others who have taken on roles which architects were wont to do before, say, World War II.

Take a look at the job signs outside major projects. Twenty years ago the architectural firm was at the top. Today it is the project manager's firm. We may get a better idea of the decline in the occupation's importance by examining *Architecture Australia*. In 1988 this journal published nine issues with a total of 1,220 pages, about 124 pages per issue. Ten years later, it only published six issues with a total of 558 pages, with 93 pages per issue.

In the face of these threats it is natural that the large firms would take defensive action. Here I specifically use the term 'architectural firm' instead of 'architects', for it is the medium to large firms that are threatened. The small architect faces no competition in this arena: you don't find project managers on suburban small jobs. The RAIA is the surrogate for those very firms who are most threatened.

The Architects Acts Protect Large Architectural Firms

The RAIA gives itself away when, as quoted on page 8 of the *Issues* paper, it defines the intent of the Architects Acts as being:

"To ensure that architectural services are provided by and under the control of architects who have the necessary competency...*and resources.*" [Italics mine]

This is interesting because it is a rare explicit statement that not all architects are equal, that those used to doing suburban "adds and alts" are hardly capable of handling multimillion dollar

developments. The RAIA is simply stating that only large firms should be given large jobs. The large firms have enough difficulty fending off other occupations with quite possibly better claims to competence. They certainly don't want any contests with those smaller boutique firms who so often win competitions.

Restricting Competition By Ensuring High Prices

Here is the architect Nicholas Ferrara, who puts forward the typical architect's view on fees:

"[Our] position is undermined when architects themselves offer to do work 'for half the price' and prefer not to undertake administration, the very task for which an architect is trained to realise his/her designs.

"How can we seriously sell the value of the profession when our own members understate their worth? In some cases, clients have reported to us that a fee is 3.5 percent for complex projects when the real fee should be about 8 percent."¹⁶

In another article in *Architecture Australia*, John Sale held that firms must be stopped from underbidding and undercutting each other: there must be price maintenance¹⁷. With a peculiar twist of logic he went on to argue that the best way to do this was to increase employee's pay, so that firms could not afford to lower their prices.

These arguments are common enough in the architectural occupation: *costs must kept high so that high prices can be justified*. Few other industries put forward these sorts of arguments.

Prosecutions under the Acts are Petty

The RAIA claims that the Architects Acts protect not themselves, but the 'public'. Consider this recent prosecution of an *architecture* firm, from a letter to *Architecture Australia*:

"This letter is to express my dismay about our recent dealings with the South Australian Architects Board. I am a registered architect (in four states) and have practiced as a conservation architect for 20 years. I have been in practice for 10 years in South Australia, *in partnership with a historian specialising in architectural and social history* [italics mine]. Our business name, McDougall & Vines Architectural and Heritage Consultants, was recently deemed by the board to be illegal. I requested to meet with the board to discuss this matter; the response was a solicitor's letter informing us that a \$1000 fine would apply if we did not change our name within two weeks. We were required to remove all reference to 'architectural' since my business partner is a historian and not an architect.

"The Architects Act makes it quite clear that there is a possibility for the board to act on their discretion in such a matter. The board's lawyers informed us that they had no intention of making any exceptions, and our request for personal discussions about the matter went unheeded."¹⁸

How does such enforcement of the Act protect the public? This is simply an example of how the occupation uses the Act to regulate internal competition.

Who is the 'Public' supposedly protected by the Acts?

The RAIA talks about 'protecting the public' as though we all used architects like doctors. Very few individuals will ever use the services of an architect. There is, perhaps, an argument to be made that this tiny number of people should have the same sort of protection against architectural incompetence as they do against bad builders. But is it worth an entire Act?

The architect-using public consists, of course, almost entirely of large firms, spending tens of millions on large projects. They are perfectly capable of protecting themselves from architectural incompetence. In a sense, they already have, by employing specialists (structural engineers, construction managers, etc) on any project of any size.

Conclusion

The Architects Acts protect architects from competing occupations, and regulate competition within the profession so as to ensure the highest possible fees. They especially act to protect large firms. The Acts should be repealed.

1 A. Abbott, *The System of Professions: An Essay on the Division of Expert Labor* (Chicago: University of Chicago Press, 1988).

2 J. Kocka, "‘Bürgertum’ and professions in the nineteenth century: two alternative approaches," in *Professions in Theory and History: Rethinking the Study of the Professions*, ed. M. Burrage and R. Torstendahl (London: Sage, 1990), 62-74.

3 R. Torstendahl, "Knowledge and Power," in *University and Society*, ed. M. Trow and T. Nybom (London: Jessica Kingsley, 1991), 35-46.

4 R. Collins, "Changing conceptions in the sociology of professions," in *The Formation of Professions: Knowledge, State and Strategy*, ed. R. Torstendahl and M. Burrage (London: Sage, 1990), 11-23.

5 Z. B. Jaszczolt, "Introduction," in *Architectural Practice in Europe 3: Benelux*, ed. K. Hall (London: RIBA Publications, 1975), 5-9.

6 V. Clark, "A Struggle for Existence: The Professionalization of German Architects," in *German Professions 1800-1950*, ed. G. Cocks and K. H. Jarausch (Oxford: Oxford University Press, 1990), 143-160.

7 B. Allies, H. Anderson, and L. Hellman, "Students of Europe 1," *Architects' Journal* : 20 April (1988): 35-49.

8 E. Freidson, "The Theory of the Professions: State of the Art," in *The Sociology of the Professions*, ed. R. Dingwall and P. Lewis (London: Macmillan, 1983), 19-37.

9 H. B. Ellwood, "Introduction," in *Architectural Practice in Europe 3: Italy*, ed. K. Hall (London: RIBA Publications, 1974), 5-9.

10 J. M. Dixon, "P/A Reader Poll: Fees and Encroachment," *Progressive Architecture* : November (1988): 15-17.

11 Source is the Union Internationale des Architectes, quoted in L. Rogers and J. Welsh, "World Cup," *RIBA Journal* : June (1995): 10-13. Counting architects (or architecture students) is not the simple task it might appear. Do we count people with architecture degrees, those who are registered (licensed), or those who call themselves architects at census time? I know quite a lot of architects who have never bothered to sit the registration exam, and some who have neither a degree nor registration..

¹² P. Garget, *Architecture Australia* 85:3, 1996.

¹³ M. S. Larson, "Emblem and Exception: The Historical Definition of the Architect's Professional Role," in *Professionals and Urban Form*, ed. J. R. Blau, M. La Gory, and J. S. Pipkin, 49-85; M. S. Larson, *Behind the Postmodern Facade* (Berkeley: University of California Press, 1993).

14 Best estimates are that architects are involved in the construction of between 30% to 50% of the contract value of buildings produced in the developed world. See R. Verges-Escuin, "Present & Future Missions for the Architect," *Fifteenth World Congress of the International Union of Architects* 1985.

¹⁵ R. Gutman, "Human Nature in Architectural Theory: The Example of Louis Kahn," in *Architects' People*, eds. R. Ellis and D. Cuff (New York: Oxford University Press, 1989), 107.

¹⁶ N. Ferrera, *Architecture Australia* 86:5, 1997.

¹⁷ J. Sale, *Architecture Australia* 85:3, 1996.

¹⁸ E. Vines, *Architecture Australia* 85:5, 1996.