CHAPTER ONE:
THE PURPOSE AND CONTEXT OF THIS THESIS

I do not intend to suggest that venality is unknown in the legal profession, but it is not its central organising principle. (Spigelman, 1998)

INTRODUCTION

When the Chief Justice of New South Wales, James Spigelman, was recently sworn into office he devoted much of his speech to the importance of the law as a profession which serves justice, not just the market. The argument is a well-known one amongst those interested in legal practice. Spigelman did not offer a tired restatement of principles honoured more in the breach than in reality. Rather, he argued that lawyers had to be efficient and judicious in balancing the demands of the market against the need to serve justice. Inefficient practices lessen access to justice. Market practices ignorant of professional values lessen access to justice.

There are some specific points of contrasts between markets and the profession worthy of note. The first, and in my view, foremost, is the significance of historical continuity. This is at the heart of the legitimacy of our legal system. A profession values such traditions. Markets are different. A market wakes up every morning with a completely blank mind, like Noddy. Second, a profession has an ethical dimension and values justice, truth and fairness. The market recognises self interest and self interest alone. Third, the operation of a market gives absolute priority to a client’s interest. A profession gives those interests substantial weight, but it is not an absolute weight. In many circumstances the lawyer’s duty to the court prevails over a client’s interest, let alone a client’s enthusiasms. (Spigelman 1998)

Some problems are solved by hierarchy, whereas others are solved by the market. The judge is right to observe from his bench that a “profession has an ethical dimension and values justice, truth and fairness”. In a court these matters are decided by tightly regulated argument in an hierarchical setting. But the judge is wrong to compare the market with Noddy. Markets do have memories. Their periodicity shows recurring
patterns of behaviour and learning. There may be accumulation of many self interested decisions but that is not to lessen their importance. The judge operates in an hierarchical system. Lawyers within law firms operate at the intersection of market and hierarchy.

Nonetheless, Spigelman is well qualified to discuss management and market settings for he too, has operated at those intersections. After qualifying in law he spent his early career in management. First in the media, then in politics as the Chief Executive Officer for the Prime Minister’s staff. He was appointed the Permanent Secretary of the Federal Department of Media in 1974 and rapidly installed strategic managerial systems that were to make it the most efficient and accountable department in that government. Spigelman has always had a fine appreciation of management and his record in government, community organisations and as a barrister has proven this capacity. So when the newly appointed Chief Justice of NSW indicated in his inaugural speech that the tension between profession and management has serious effects for justice he did so with impeccable credentials.

It is this intersection of profession and management of new phenomena that, paradoxically, the judge represents. Because of social changes the issue of how to organise professionals is now more critical than ever before. Authors such as Castells (1996), Drucker (1993), Handy (1989) and Toffler (1994) have observed that society, across developed economies, is being transformed so that symbolic analysis, representational analysis, or knowledge work is dominating. Drucker (1993:1-7) calls this the post-capitalist era and convincingly weaves together economic integration by free markets, changes in banking roles, changes in social classes, problems and structure, and changes in values, on a frame that is singular. That frame is that, “the means of production, to use the economist’s term – is no longer capital, nor natural resources nor labour. It is and will be knowledge (sic)” (Drucker 1993:4).

In the legal profession we have the archetypal knowledge industry (Mayson 1997:41). Lawyers deal with representations. They represent the symbolic analysts whom Reich (1991:177-180) noted were increasingly present in developed economies. Whilst Reich
(1991) and Handy (1994:24) were right to observe the growing numbers and relative wealth of knowledge workers, Drucker's (1993) point was more essential. He argued that society’s paradigm has shifted or is shifting to a position within which knowledge is the essential resource that affects all else, influences all else. In such a world a proper place of inquiry is the place of knowledge workers. It is now critically important to understand how knowledge workers are organised. As I have said the archetypal knowledge workers are lawyers.

A judge’s credentials are applied from the Bench, which, whilst it may be most symbolic of the law, is not where most legal work occurs. Litigation, pleading and judgement are, in most instances, the finalisation of legal matters for whilst criminal matters may proceed fairly rapidly to litigation, commercial and other matters almost always are decided by law firms dealing with clients and other professionals. Nevertheless, Spigelman’s argument did not limit itself to litigation, rather it pointed to the tension between profession and market manifested throughout the legal industry, and therefore within law firms.

Within law firms there is a hurly burly that demands rapid decisions, some of which finely judge the demands of the client, long term relationships and justice. Strategically, partners of law firms establish systems that guide these decisions. But law is a knowledge industry, as Mayson (1997) calls it and a myriad of individual decisions by professionals aggregate to pattern the firm. There is therefore a reflexive nature to law firms that may be more pronounced than in other industries. Professionals enter their careers in law firms¹ socialised to fairly consistent values by their education, experience of the industry and professional association. They know templates of professional practice. These templates may be ameliorated by practice within the firm as their socialisation continues, but there are broadly agreed values. Chief Justice Spigelman expresses the issue of retaining service to justice whilst serving the market as if it were

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¹ In NSW a minority of graduates enter law firms yet these firms are more influential than any other branch of law. This is an issue that initially drew me to this study. How do those in firms organise to balance professional demands and market demands?
an either/or decisions. However, lawyers in their firms practise within professional templates, which they interpret, relative to their context.

So, if we are to understand the organisation of knowledge workers, we should look inside law firms. Given Spigelman’s advice, we should expect to find that there will be some tension between being a professional and organising a professional law firm.

THE PURPOSE AND SIGNIFICANCE OF THIS THESIS

This thesis analyses organising practices in law firms. Professionals in law firms negotiate, advise, contract and represent clients. It is this last function which the informal observer often concentrates upon; imaginatively representing the lawyer as an advocate, pleading a case before a court. Such is the stuff of popular culture, in famous images such as that of Horace Rumpole. This is not however where lawyers spend most of their time. Litigation is one small but important part of most law firms' tasks. Most of the activities of law firms have to do with facilitating trade and commerce and most of their clients are businesses and associations (Australian Bureau of Statistics 1997). Whilst law firms are themselves economically significant, they are part of a broader sector of the economy, business services. Business services include accountancy, consultancy and computing firms whose task is chiefly to facilitate trade and commerce. Law firms fit within this sector and conduct large portions of their work in association with these other groups. Wixted (1998) has shown that business service firms historically comprise about 3-4% of Australian Gross Domestic Product, and that much of their trade takes place between themselves and other business service firms. Moreover, he (Wixted 1998) arrays data so that *inter alia* he demonstrates which sectors facilitate trade. By tracking statistical inputs and outputs he shows which sectors are most influential. His data when shown in series reveal that the peak of business services grows much more rapidly than any other during 1973-1991 and therefore that business services are growing more rapidly than any other sectors and are more influential than all others.
During these transactions law firms play a major role of influence with clients and business service providers. The Australian economy is, in its majority a service economy (Australian Bureau of Statistics 1997A) and the knowledge firms that comprise the business service sector are constituent of this majority. They facilitate trade in this sector, as well as all the others, and they are capable of transmitting information within sectors. This is a notable feature of law firms, the largest of which are strategically placed in the economy. Clegg (1989:214) describes such positions theoretically, as "obligatory passage points" Saxenian (1995) describes them empirically in her study of innovation in Massachusetts and California. Both note that size of firm is not a necessary condition of influence, but it is a prevalent condition of influence. Saxenian (1995), in particular, observes that relatively small law firms can be disproportionately influential in the economic prosperity of a region.

The influence that law firms are able to exert is aided by their professional associations, to which each practising lawyer must be accredited. These professional bodies exercise regulation over their membership as a government licensed form of monopoly (MacDonald 1995). Even though legal monopoly has been reduced in most Western economies in the last decade, the influence of law firms in the legislative and executive processes remains strong. Lawyers advise, draft legislation, represent, interpret and argue in such a way that they retain a special status with government, a status which they are able to exploit effectively.

Law firms, one may infer, comprise one of the central institutional orders of modern societies. Despite this, the organisation of law firms has not been deeply studied. There is a literature on professions and lawyers but very little on the way they organise. I attend to this literature in the next chapter. Therefore, suffice to say for now, research on the organising practices of firms within the largest division of the Australian economy, those firms that are strategically influential for trade, commerce and government, is clearly justified.
My project seeks to improve understanding of why law firms are organised as they are. This project commenced with a review of the contextual circumstances of Australian law firms. I analysed literature published in the last decade and identify major themes mentioned in government reports, professional bodies' reports, as well as academic journals and law books. The key themes were very clear, reflecting issues that one finds in commerce generally, with the exception of one: access to justice. The themes that recurred were: access to justice; de-regulation; increased competition; changed customers' demands, new technology and globalisation.

The organising practices of law firms have an indirect impact on access to justice. Purcell, Truda and North (1994) argued, for instance, that inefficient management within law firms and the Court system restricted access by driving up costs, driving down margins, and wasting resources. There has been a broad debate concerning access to justice. For example, Sackville (1995) analyses distortions in access to, and use of the system, and Dodson (1991) reports on the disadvantages that race and poverty imply for equal access. Widespread recognition exists, with varying degrees of focus, that systemic inefficiencies restrict access. By contrast with these broad concerns with social justice, I found no evidence in the literature that law firms recognised access to justice as a strategic imperative for their organising. While they recognised a need for improvement in their pro publico bono and legal aid work they also realised that professional service to the community was lessening.

De-regulation is vitally significant to law firms, although it has not (yet?) touched their State protected status of enjoying a legal monopoly. The legal profession, together with the medical and some other professions, continue to be defined through their monopoly licence to practice; the subordination of tertiary qualifications to professional associations, and the incorporation of self-surveillance of the conditions of licence and practice. Australia, like most developed economies, has adopted de-regulation as, a priori, good public policy. Perhaps the most significant and dramatic event in this process was the market floating of the Australian currency in March 1983, followed by de-regulation of the banking industry which permitted foreign banks to enter Australia,
quasi Banks to change status, and saw the retreat of the central Reserve Bank from tight controls over banking affairs. The de-regulation of the banking industry started with a social democratic Labor Party government in 1984 and is being furthered by conservative Liberal National coalition government in 1998 (Wallis 1997). At a national level these represent the possible governing parties in this country and display a convergence on the merits of de-regulation. I emphasise the financial services industry, not only because of its vanguard status, but also because of its signal effect on the growth of Sydney\(^2\) as the business services centre of this country and region (Main 1998).

At the State level there also appears to be near unanimity about de-regulation. State governments have systematically reviewed statutes that restrict entry into markets, under the auspices of the various Premiers' Conferences. This annual meeting of the heads of governments and territories establishes standing committees of executives to implement an agenda of coordinated de-regulation. The committees negotiate agreements, which are legislated in State Parliaments, due to Australia's Federal nature. One can trace de-regulatory events in the recent history of the electricity grid, water reticulation, rivers management, and professions in Australia (Hilmer 1995). Most germane to this thesis was statutory removal of restricted rights to practice in the professions. For example, states legislatively removed lawyers' monopoly over the conveyancing of property. This was a staple of most law firms and significantly affected the profession’s practices. De-regulation has opened the market that lawyers had monopolised and conditioned Australians to expect less restriction in most, if not all, forms of trading. It has been institutionalised into the policy making of Australian governments. Its impact on law firms has been to remove staple products from their monopoly and to threaten increasing competition for all services they supply – at least at the margins.

In the last fifteen years Australia has experienced very significant growth in its Gross Domestic Product (ABS 1997A) modulated by cyclical fluctuations. This has meant

\(^{2}\) Sydney is the capital of NSW and the site of my research. Starbuck (1993) argued that a proper site for research is a site of excellence and influence. Thus, it is apt to study law firms in Sydney.
intense competition for professional business services, particularly in the East Coast capitals of Sydney, Melbourne and Brisbane. De-regulation has meant that competition has increased due to removal of statutory barriers to entry. Competitors who enter have pushed other barriers, and the bias towards de-regulation predicts the removal of many of these as well. For example, accountancy firms now provide commercial property conveyancing and taxation advice to clients as part of an increasing range of services by which they can add value to their clients. Thus, other professions are beginning to threaten some protected segments of the market, and those segments that are currently colonised by the legal profession become more intensively competed by law firms. The influx of capital and the regional headquartering of transnational firms in these major cities has also increased competition. The practices of transnational firms impact on the way business service relationships are established and developed. They promote the practice of calling for tenders for business service contracts and then tightly manage the performance outcomes. Tendering and forming panels of providers has also been a management practice favoured in de-regulated industries. Coupled with contracting out of non-core business by commerce and industry generally (Karpin 1995), has been an increase in competition as well as changed relationships between customers and professional business service providers.

Legal counsellors have been appointed permanent positions in corporations at unprecedented levels (King et al. 1997). Their main task has been to manage the relationship between professional business service providers and their employers. Firms which provide this service from outside the corporation, as another form of contracting-out, have also emerged. The combination of these factors has intensified the lawyer and client relationship. Corporations no longer feel that they owe loyalty to a law firm that has served them over many years. The fiduciary duties of directors increasingly incline them to manage relationships through tenders, panels, corporate counsel, agreed service contracts, and measured performances. Managers within corporations expect to be able to scrutinise law firms' progress in matters they have contracted. Sophisticated computing technology has made this possible and altered relationships accordingly.
Clarke and Monkhouse (1994:36) have observed that the confluence of computing technology and information technology has provided a wave of innovation that has changed the way people in developed economies work. This is particularly visible in service economies that trade in information and knowledge. It has de-centred production and distribution in such a way that services can flow across traditional boundaries of states, corporations and professions. Accordingly, it is now not difficult to measure the performance of a corporation's law firm by using mutually shared software and firmware. It is not difficult within law firms to measure the performance of one's partners and staff. Nor is it difficult to share legal work within a law firm. Non-lawyers can contribute to legal work in unprecedented fashion due chiefly to the opportunities of technology. But these opportunities are also open to competing professions, and accountants, in particular, have used technology and staff leverage to establish beach heads in segments of the market previously colonised only by lawyers.

Globalisation is a theme intertwined in the previous discussion. International trade to and from Australia has increased and quickened in the last decade. For most of this time Australia's involvement in trading with Asia increased which, until 1998 was the fastest growing economic region in the World. During the same decade trade with the rest of the world increased substantially (ABS 1997A). Managerial ways have altered less rapidly (Karpin 1995). Nevertheless, an emphasis on managing through professionalisation of the work force, coupled with a decimation of middle level managers, and increases in technological oversight, have been by-products of globalisation (Karpin 1995). Globalisation does not appear to have had the direct impact on lawyers that the literature suggests. At least the lawyers' literature does not reveal interest in it. There has not yet been the move to take over Australian firms by UK or USA law firms, which do little trade here. But accountants do, and they have aggressively moved into law. Andersen International for example, had eight lawyers in Australia in 1995. They now have eighty lawyers in Sydney alone, and recently won the tender to provide risk management law to the Commonwealth government. This is a form of law that permits high leverage and tight management and may be a niche well suited to accountancy firms with legal capacity. So globalisation is an ill-focussed theme
for lawyers. Representatives of large law firms express interest in it intellectually but restrict their strategic interest to the competitive threat it poses.

All of these themes are inter-connected. De-regulation opens markets and increases competition. More competition changes customers' demands. Technology enables satisfaction of changed customers' demands, increased competition and more de-regulation. Globalisation speeds it all.

THE ECONOMIC CONTEXT OF LAW

In the fiscal year 95-96, the latest for which national figures are available, legal services contributed $5,590 million to Australia’s Gross Domestic Product (ABS 1997:10). The statistician prepared a national legal services sources of income statement, reproduced below, which shows the relative importance of types of business. Two in particular are notable, conveyancing and commercial. Conveyancing declined by 35% in the period 1992 to 1996 (ABS 1997:10-11) while commercial has remained steady (ABS 1997:10, ABS 1995:5). Conveyancing still remains the second largest revenue earner. Almost 60% of legal practices derive income from property conveyancing, though this is declining.
Table 1.1 Legal Services, Sources of Income 1995-96

<table>
<thead>
<tr>
<th>Sources of Income</th>
<th>Practices at End June No.</th>
<th>Value Sm</th>
<th>Contribution to Total Value %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales of goods and services</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Income from legal services</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Property conveyancing</td>
<td>5,787</td>
<td>686.3</td>
<td>12.3</td>
</tr>
<tr>
<td>Other property work</td>
<td>4,978</td>
<td>346.4</td>
<td>6.2</td>
</tr>
<tr>
<td>Wills, probate and estate activities</td>
<td>5,732</td>
<td>222.5</td>
<td>4.0</td>
</tr>
<tr>
<td>Commercial, finance and business</td>
<td>6,681</td>
<td>4,784.7</td>
<td>31.9</td>
</tr>
<tr>
<td>Family</td>
<td>4,600</td>
<td>318.9</td>
<td>5.7</td>
</tr>
<tr>
<td>Criminal</td>
<td>4,093</td>
<td>179.0</td>
<td>3.2</td>
</tr>
<tr>
<td>Environmental</td>
<td>1,073</td>
<td>98.5</td>
<td>1.8</td>
</tr>
<tr>
<td>Industrial relations</td>
<td>1,742</td>
<td>134.1</td>
<td>2.4</td>
</tr>
<tr>
<td>Motor vehicle injury</td>
<td>4,199</td>
<td>311.8</td>
<td>5.6</td>
</tr>
<tr>
<td>Workers’ compensation</td>
<td>2,973</td>
<td>358.4</td>
<td>6.4</td>
</tr>
<tr>
<td>Other personal injury</td>
<td>3,166</td>
<td>226.7</td>
<td>4.1</td>
</tr>
<tr>
<td>Other fields</td>
<td>3,152</td>
<td>588.5</td>
<td>10.5</td>
</tr>
<tr>
<td>Total</td>
<td>9,796</td>
<td>5,255.8</td>
<td>94.0</td>
</tr>
</tbody>
</table>

| Gross disbursement recoveries           | 5,838                     | 267.8        | 4.8                           |
| Other operating income                  | 1,517                     | 41.3         | 0.7                           |
| Total                                   | 9,796                     | 5,564.9      | 99.5                          |

| Interest income                         | 2,754                     | 10.9         | 0.2                           |
| Other non-operating income              | 1,734                     | 15.1         | 0.3                           |
| Total                                   | 9,796                     | 5,590.9      | 100.0                         |

Source: (ABS 1997:10)

De-regulation in conveyancing has reduced the margins available to law firms for this service but it has remained a staple, particularly for small firms (ABS 1997:10-19). The inherent conservatism of the profession shows in this reliance, but so also does the inherent difficulty that small firms have in diversifying. The tables below set out the relative size of law firms and the clients they serve. Large firms have much more diverse practices than do small firms.
Table 1.2 Legal Services, Practice Size

<table>
<thead>
<tr>
<th>Employment size</th>
<th>Practices at end June No.</th>
<th>Principals and partners No.</th>
<th>Other employees No.</th>
<th>Total employ. No.</th>
<th>Total income Sm</th>
<th>Operating profit before tax Sm</th>
<th>Operating profit margin %</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-4 persons</td>
<td>6 496</td>
<td>6 993</td>
<td>5 534</td>
<td>12 527</td>
<td>998.1</td>
<td>495.6</td>
<td>50.2</td>
</tr>
<tr>
<td>5-9 persons</td>
<td>1 878</td>
<td>2 940</td>
<td>9 201</td>
<td>12 140</td>
<td>779.4</td>
<td>151.2</td>
<td>19.5</td>
</tr>
<tr>
<td>10-19 persons</td>
<td>898</td>
<td>2 001</td>
<td>9 756</td>
<td>11 757</td>
<td>805.9</td>
<td>206.4</td>
<td>25.7</td>
</tr>
<tr>
<td>Total</td>
<td>9 271</td>
<td>11 933</td>
<td>24 491</td>
<td>36 424</td>
<td>2 583.4</td>
<td>853.1</td>
<td>33.2</td>
</tr>
<tr>
<td>20-49 persons</td>
<td>384</td>
<td>1 895</td>
<td>9 572</td>
<td>11 467</td>
<td>843.1</td>
<td>282.6</td>
<td>33.6</td>
</tr>
<tr>
<td>50-99 persons</td>
<td>77</td>
<td>732</td>
<td>4 415</td>
<td>5 147</td>
<td>473.5</td>
<td>126.6</td>
<td>26.9</td>
</tr>
<tr>
<td>100 or more persons</td>
<td>64</td>
<td>1 858</td>
<td>12 598</td>
<td>14 455</td>
<td>1 690.9</td>
<td>488.2</td>
<td>29.0</td>
</tr>
<tr>
<td>Total</td>
<td>525</td>
<td>4 484</td>
<td>26 585</td>
<td>31 069</td>
<td>3 007.5</td>
<td>897.3</td>
<td>29.9</td>
</tr>
<tr>
<td>Total</td>
<td>9 796</td>
<td>16 417</td>
<td>51 076</td>
<td>67 494</td>
<td>5 590.9</td>
<td>1 750.4</td>
<td>31.5</td>
</tr>
</tbody>
</table>

Source: (ABS 1997:15)

Table 1.3 Income from Legal Services by Type of Client

<table>
<thead>
<tr>
<th>Type of client</th>
<th>Income from conveyancing</th>
<th>Income from other legal services</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Sole proprietor, partnerships and trusts</td>
<td>23.4</td>
<td>16.1</td>
</tr>
<tr>
<td>Individuals and non-profit organisations</td>
<td>51.0</td>
<td>28.0</td>
</tr>
<tr>
<td>Financial institutions</td>
<td>8.5</td>
<td>16.0</td>
</tr>
<tr>
<td>Companies</td>
<td>15.4</td>
<td>34.2</td>
</tr>
<tr>
<td>Government</td>
<td>1.8</td>
<td>5.7</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Source: (ABS 1997:16)

A clear trend can be seen in legal services if one concentrates on businesses by size. Numerous small firms have always dominated Australian law but this domination has been due to number of firms rather than revenue, employment or other aggregate factors (ABS 1997: 11). In the last decade there has been a statistical bifurcation in the industry. The numbers of small firms and large firms have increased whilst the number of medium firms has declined. This is consistent with the predictions made by Galanter and Palay (1991) when writing of the USA legal industry and Mayson’s (1997) observations of the UK legal industry.
Table 1.4 Legal Services, Change in Business Size

<table>
<thead>
<tr>
<th>Employment Size Category</th>
<th>No. of businesses</th>
<th>Total Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No.</td>
<td>No.</td>
</tr>
<tr>
<td>0-4 persons</td>
<td>3,722</td>
<td>5,882</td>
</tr>
<tr>
<td>5-9 persons</td>
<td>1,480</td>
<td>1,677</td>
</tr>
<tr>
<td>10-19 persons</td>
<td>749</td>
<td>798</td>
</tr>
<tr>
<td><strong>Total Small Businesses</strong></td>
<td><strong>5,951</strong></td>
<td><strong>8,357</strong></td>
</tr>
<tr>
<td>20-49 persons</td>
<td>374</td>
<td>343</td>
</tr>
<tr>
<td>50-99 persons</td>
<td>92</td>
<td>86</td>
</tr>
<tr>
<td>100 or more persons</td>
<td>42</td>
<td>64</td>
</tr>
<tr>
<td><strong>Total Other Businesses</strong></td>
<td><strong>508</strong></td>
<td><strong>493</strong></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>6,459</strong></td>
<td><strong>8,850</strong></td>
</tr>
</tbody>
</table>

Source: (ABS 1995:12)

Small firms are economically most at risk. They are typically under-capitalised, sole practices with insignificant influence. Large firms are the most profitable, but the liability risk of practising in these firms, all of which are by statutory requirement partnerships, has led partners to leave them and set up their own specialised small firms. For example, the Allen, Arthur, Robinson Group alone has publicly known liability matters proceedings in excess of $300 million. One of its partners recently estimated, in a speech to the Council of Business Professions, (King 1998) that liability matters totalling $5 billion, that is almost equivalent to a year’s revenue for the whole industry, are outstanding against Australian law firms. So some of the increase in small firms has been due to partners leaving large firms to establish more focussed firms, and part of it has been the establishment of sole practices by newly qualifying lawyers, of whom NSW has a surfeit.

The industry has responded to the issues of de-regulation, liability and industry structure through its major professional bodies, the NSW Law Society and the Victorian Law Society. King, et al. (1997) were commissioned by the NSW Law Society to inquire into the statutory constraints placed on the legal profession. They reported that the industry should be completely de-regulated, but that in any arrangement where law was
transacted, a lawyer should be accountable to the Court and the Law Society. They recommended that lawyers should be permitted to practise in companies limited by shares that could invite equity investors. The Victorian report was equally as de-regulatory, if not more so. Wade, the Victorian Attorney General, accepted the argument for de-regulation of market entry, business structure and investment but she also proposed that the professional association should be subject to competition. The response from both professional bodies has been slow, as their members debate the proposals. In NSW, typically, representatives of large firms speak for the proposals whilst representatives from small firms speak against the proposals.

The Australian Statistician has captured several of these matters in the tables I display below. These show types of law firms, and profitability. Table 1.5 and 1.6 provide a snapshot of the industry.

<table>
<thead>
<tr>
<th>Table 1.5 Legal Services, Key Figures</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>Practices at end June</td>
</tr>
<tr>
<td>Solicitors (no.)</td>
</tr>
<tr>
<td>Barristers (no.)</td>
</tr>
<tr>
<td>Other (no.)</td>
</tr>
<tr>
<td>Total (no.)</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Employment at end June</td>
</tr>
<tr>
<td>Working principals and partners (no.)</td>
</tr>
<tr>
<td>Principals of service entities (no.)</td>
</tr>
<tr>
<td>Total (no.)</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Other qualified employees (no.)</td>
</tr>
<tr>
<td>Other employees (no.)</td>
</tr>
<tr>
<td>Total (no.)</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Total (no.)</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Income</td>
</tr>
<tr>
<td>Income from legal services ($m)</td>
</tr>
<tr>
<td>Other income ($m)</td>
</tr>
<tr>
<td>Total ($m)</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Expenses</td>
</tr>
<tr>
<td>Labour costs ($m)</td>
</tr>
<tr>
<td>Rent, leasing and hiring expenses ($m)</td>
</tr>
<tr>
<td>Other expenses ($m)</td>
</tr>
<tr>
<td>Total ($m)</td>
</tr>
<tr>
<td>Operating profit before tax ($m)</td>
</tr>
<tr>
<td>Operating profit margin (%)</td>
</tr>
<tr>
<td>Industry gross product ($m)</td>
</tr>
</tbody>
</table>

Source: (ABS 1997:14)
Table 1.6 Legal Services: Operating Profit/Loss Before Tax

<table>
<thead>
<tr>
<th>Practices reporting a profit</th>
<th>Practices at End June No.</th>
<th>Proportion of Total Businesses</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1 000 000 and greater</td>
<td>231</td>
<td>2.4</td>
</tr>
<tr>
<td>$500 000-$999 999</td>
<td>373</td>
<td>3.8</td>
</tr>
<tr>
<td>$100 000-$499 999</td>
<td>2,644</td>
<td>27.0</td>
</tr>
<tr>
<td>$20 000-$99 999</td>
<td>3,244</td>
<td>33.1</td>
</tr>
<tr>
<td>$5 000-$19 999</td>
<td>1,365</td>
<td>13.9</td>
</tr>
<tr>
<td>$0-$4 999</td>
<td>652</td>
<td>6.7</td>
</tr>
<tr>
<td>Total</td>
<td>8,508</td>
<td>86.9</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Practices reporting losses</th>
<th>Practices at End June No.</th>
<th>Proportion of Total Businesses</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1-$4 999</td>
<td>*365</td>
<td>3.7</td>
</tr>
<tr>
<td>$5 000-$19 999</td>
<td>402</td>
<td>4.1</td>
</tr>
<tr>
<td>$20 000-$99 999</td>
<td>439</td>
<td>4.5</td>
</tr>
<tr>
<td>$100 000 and greater</td>
<td>*82</td>
<td>0.8</td>
</tr>
<tr>
<td>Total</td>
<td>1,288</td>
<td>13.1</td>
</tr>
</tbody>
</table>

Source: (ABS 1997:17)

My study concentrates upon law firms in NSW, specifically Sydney. NSW has more legal practices than any other state and Sydney produces the large majority of legal services.
### Table 1.7 Legal Services, State and Territory Comparisons

<table>
<thead>
<tr>
<th></th>
<th>Practices at end June</th>
<th>Principals and Partners</th>
<th>Other Employees</th>
<th>Total Employment</th>
<th>Wages and Salaries</th>
<th>Total Income</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No.</td>
<td>%</td>
<td>No.</td>
<td>%</td>
<td>No.</td>
<td>%</td>
</tr>
<tr>
<td>NSW and ACT</td>
<td>4 044</td>
<td>41.3</td>
<td>6 770</td>
<td>41.2</td>
<td>21 076</td>
<td>41.3</td>
</tr>
<tr>
<td>Vic.</td>
<td>2 956</td>
<td>30.2</td>
<td>4 683</td>
<td>28.5</td>
<td>12 635</td>
<td>24.7</td>
</tr>
<tr>
<td>Qld</td>
<td>1 563</td>
<td>16.0</td>
<td>2 737</td>
<td>16.7</td>
<td>9 447</td>
<td>18.5</td>
</tr>
<tr>
<td>SA</td>
<td>487</td>
<td>5.0</td>
<td>830</td>
<td>5.1</td>
<td>2 702</td>
<td>5.3</td>
</tr>
<tr>
<td>WA</td>
<td>553</td>
<td>5.6</td>
<td>981</td>
<td>6.0</td>
<td>3 655</td>
<td>7.2</td>
</tr>
<tr>
<td>Tas.</td>
<td>136</td>
<td>1.4</td>
<td>336</td>
<td>2.0</td>
<td>1 153</td>
<td>2.3</td>
</tr>
<tr>
<td>NT</td>
<td>59</td>
<td>0.6</td>
<td>80</td>
<td>0.5</td>
<td>408</td>
<td>0.8</td>
</tr>
<tr>
<td>Aust.</td>
<td>9 796</td>
<td>100.0</td>
<td>16 417</td>
<td>100.0</td>
<td>51 076</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Source: (ABS 1997:10)
Sydney, where 4 million of Australia's 18 million people live, acts as the hub for national business services. For example, Sydney now controls around 75% of the $456 billion funds management industry, ie $342 billion. Melbourne controls 20% and Brisbane about 5%. Whilst there have been substantial flows between the two major capitals, Melbourne has not lost funds in absolute terms. However during the last ten years Australia has moved from thirty-ninth to fifth nation in the OECD for funds under management (Main 1998). This growth in savings has been chiefly driven by compulsory superannuation to which employers and employees must contribute. Similar activity reports could be produced for the retail and wholesale banking industry and the construction industry. These all indicate that State Capitals along the East Coast of Australia are experiencing significant economic growth. But of those capitals it is Sydney that is booming most. It is experiencing a construction boom and a huge rise in the establishment of transnational companies' Australian offices. Merged financial institutions have established headquarters in Sydney. The Sydney Stock Exchange trades about twice the volume of the Melbourne Exchange. The most telling data come to me from unpublished sources. Three of Australia's Big Nine law firms, Minter Ellison; Corrs, Westgarth, Chambers; and Allen, Arthur, Robinson Group have shown me that their Sydney offices write two to three times more business than their Melbourne offices do.

**SUMMARY**

In the last decade Australia has experienced significant growth in population, products and services, business services, and legal services. More of its population is tertiary educated, ageing, and culturally diverse than it was a decade ago. Its economy is now chiefly a service economy and the focus of service industries is Sydney, which is the chief export site for these services.

The legal industry contributes significantly to the service sector and facilitates trade in all sectors. It is nationally spread but concentrated in Capital cities, particularly Sydney. The industry bifurcates between large and small firms and, in the aggregate, effectively trades different services from those divisions. The largest business streams are commercial and conveyancing. Within law firms the average age of
lawyers is declining, more women are practising, and lawyers are more educated than a decade ago.

The legal industry faces economic and professional challenges. Economically, it provides services that are, in the aggregate, mature and declining, into markets that are growing significantly and are subject to intensifying competition. Statutory and professional requirements limit its organising options. Professionally there is tension between the demands of the market and the demands of the profession. Some see these demands as mutually exclusive whilst others see that they can be complementary.

This thesis analyses the way law firms organise in response to these contextual circumstances. To understand how influential firms respond to significant contextual change is a worthwhile task. However, the thesis project extends beyond this task and asks “Why are law firms organised as they are?” This involves the researcher in theory building which is apt for professional organisations and extensive fieldwork within law firms. The focus is upon organising professional firms, and the thesis adds to a small but influential body of empirical research. In achieving the thesis project significant contributions are made to theory and method of analysis of professional firms.

This chapter has set out the broad context of the legal industry. The rest of the thesis is set out as follows. In Chapter Two I review the literature of professional organisations, construct a theoretical framework that enables interpretation of law firms and explain the contributions that the thesis will make to the field of organisational analysis. In Chapter Three I put the research question and explain the method that I use to pursue it. Chapters Four and Five contain field study data concerning fifteen Sydney law firms. In Chapter Six I set out data concerning three law firms that were studied more deeply than those previously described. In the final chapter I summarise the data, interpret it and draw conclusions.
CHAPTER TWO:

THE THEORETICAL FRAMEWORK OF THIS THESIS

And here is the tribe they know, in their known place,
They are gentle and kind together, they are safe for ever. (Stewart 1980).

INTRODUCTION

This thesis examines management of legal firms in New South Wales and develops a theoretical framework that relates professional organisations, such as legal firms, to the broad theory of organisational analysis. Here is a first difficulty, as almost all organisational analysis refers to large complex organisations, or takes these as a model for organisational forms generally. The antecedence of organisational theory is within these forms. However, professionalization seems to be an increasing phenomenon, particularly in the organising of the service economy, and this niche of knowledge has not yet gained the attention deserved. These organisations are not representative of the whole range of organisations; a diversity of other forms exists. Nevertheless, professional organisations are of increasing importance in their own right and in their influence on other organisational forms. Therefore, not only must they be investigated in theoretical terms that are appropriate to them, but also such theory can then contribute to organisation theory as a whole.

This chapter specifically addresses activities in professional firms and postulates the contribution of this thesis to the theory of the professional firm and to the field of organisational analysis. The theoretical foundations and framework of this thesis are the structuring theory of Ranson, Hinings and Greenwood (1980), archetype theory (Greenwood and Hinings 1988), and circuits of power theory of Clegg (1989). The

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3 There is a growing sociological literature on service organisations that is affecting organisation theory (Hanlon 1997, 1997A, 1998 provides good examples). There is also, of course, a well established literature on the professions (Parsons 1959; Becker 1970; Friedson 1970). However, neither of these focuses on professional organisations.
foundation of this work is the structuration tradition introduced into organisational analysis by Ranson, Hinings and Greenwood (1980), which was presented as an attempt at theoretical integration between structuralists and interactionists. Two of these three authors were later to introduce archetype theory (Greenwood and Hinings 1988) and demonstrate how it could be used in the analysis of professional organisations (Greenwood, Hinings, Brown 1990). Whilst archetype theory can be seen as stemming from footings first sunk in the 1980 work it may be seen as being within an institutionalist tradition. That emphasis diverts from the integration project of structuring theory. I will demonstrate how a version of reflexive archetype theory can be constructed that will pursue the integrationist project and yet add to archetype theory's contributions. The circuits of power theory of Clegg (1989) provides the vital brace and link that extends structuring and archetypes, therefore producing a framework within which the project of this thesis can be completed. This amalgam of theory and the manner in which it extends structuring and archetype theory are explained. Its convergences and divergences from core theory and its contribution to organisational analysis are identified. In particular it contributes to debates concerning structure and agency, localism and globalism, conservatism and relativism which Reed (1996) specifies as vital for any new contributions to organisational analysis.

PROFESSIONAL ORGANISATIONS

Professional organisations are comprised of groups of people who are professionally qualified and affiliated\(^4\), typically in one profession, who form together in a business structure for purposes that are espoused in some form of agreement of association\(^5\). Further to this, professional organisations are constrained in their available business structures by institutional forces such as statute and professional norms (Di Maggio and Powell 1983). For example, lawyers in NSW cannot form limited liability companies for legal practice and almost all structures are sole traders or

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\(^4\) Along with technical and support staff.

\(^5\) However, there are indications that professional organisations are increasingly crossing professions and professional boundaries in their attempt to extend their range of services and enter new markets.
partnerships. Additionally, lawyers in NSW operate within the framework of the NSW Law Society, which issues their practising certificates, and within this framework have to conduct their business affairs in prescribed ways which include restrictions on shared practices between, for example, accountants and lawyers. So we find lawyers typically operating in a partnership structure whereby ownership, managership and professional action are intermingled, and where much of their activity is tightly institutionalised by professional norms and statutory coercion.

Fields which are strongly institutionalised in such a way are likely to resist change significantly but transmit it rapidly once a change has become legitimised. Cooper, Hinings and Brown (1996) empirical evidence of this from the field of Canadian law indicates that large law firms have adopted new organising practices that are being copied in other Canadian legal firms. Clegg (1989: 233-238) provides theoretical evidence that tightly institutionalised fields can permit innovation without threat to their social order. This interesting paradox of an institutional conservatism which delays acceptance of social innovation but rapidly transmits those innovations which are accepted makes the study of legal industries intriguing. Globalisation (Castells 1996; Dunning 1993; Dicken 1992; Clegg and Gray 1996) creates pressures for the mimicking of successful organisational practices from one region to another. Practices that have become institutionalised in one regional context may therefore be more speedily institutionalised in another regional context today than they would have even ten years ago. For example a North American legal firm may appoint non-legal specialist managers to strategically manage the firm. Such a practice may run contrary to generally accepted practice in that region but, if and when it is accepted there, globalisation will hasten its spread elsewhere. Knowledge transfer is obviously more rapid due to globalised technology and markets. Nevertheless, not all institutional practices from one region will be accepted in another. There will be issues of translation involved. (Callon 1986:196) Some practices may be rejected because the field is closely institutionalised and not enrolled by sufficiently influential agency to vary these practices. Yet others may not be threatening in any way and readily accepted. Still other changes in one region will be championed in

6 It is possible to form a solicitor's corporation which is a separate entity from its owners but their liability is not limited by such a move. This business structure is so rarely used as the main vehicle for business as to be ignored.
another region and adopted. Thus when firms change they create new institutional ways of organising, of using power, of developing values. One may observe these ways as they transmit in an institutional field not only within one national context but also across national boundaries and institutional contexts.

Most organisational theory relates to large complex organisations that are not professional. This thesis however examines the activities of legal firms, professional firms. Of course some law firms grow quite large and complex. One of the firms that I analysed as part of this thesis has approximately two thousand employees, which, in Australia, in any industry is a large firm by statistical standards, and in the legal industry is considered a mega-firm. In the section below I will review briefly the arrangements that may occur in a typical legal firm so that one can properly envisage the nature of professional organisations as contrasted to large industrial organisations.

**THE NATURE OF LAW FIRMS**

A law firm may commence as a sole trader, to which may be added other practitioners, and a partnership formed. In such an early stage of growth one might imagine that all lawyers in the firm are partners and have contributed equity to the partnership. This might evolve as they employ other lawyers, para-legal staff and administrative staff. The firm may then decide that some employed solicitors will be invited to become partners. Further, some of these partners might be offered equity in the firm and admitted as equity partners while others may be given the status of partners without equity and thus be termed salaried partners. The partners might also invite lawyers from other firms to join, in some instances as partners, or may merge with other partnerships. The firm may then structure its affairs with partners leading functional areas of specialty, which they probably refer to as their practice. For example, a firm might have a corporate practice, a personal injury practice and environmental law practice. One of the partners might be seen as a superior litigator and affairs would be structured around that perception. An employed lawyer might operate in several grades in the firm, commencing as a junior employed lawyer, progressing to associate and senior associate before reaching partner. Along the way
she might manage a functional area for the firm, such as legal technology or corporate markets.

The level of complexity of functions, rules and structuring of the firm will probably be related to its size. The cases in this thesis range in size from a single lawyer with one administrative assistant, to a firm with several hundred partners. This latter firm employed specialist managers and established a network of separate legal entities. Several of these were limited liability companies in which partners were shareholders and which provided non-legal services to the firm, such as administration.

One element that differentiates professional organisations from other types of organisations is that the owners of the business are professional operatives within them who typically share strategic decision making roles. This differentiates professional firms from most other complex organisations in which ownership and operation are separate. The power of these owner/operatives will vary, depending upon several elements. These include proportion of equity, history of involvement (for example founding partners tend to have superior power), trends in the specialty practised (for example currently in NSW the environmental law niche is growing whereas the injury law niche is declining), capacity to bring work to the firm, legal reputation, and, most significantly, the outcome of meanings which are translated from these factors by other actors (Callon 1986:196). This combination of ownership and operation makes power more explicit in the equations of the firm’s governance and strategy.

Lawyers may practise in many professional specialties. In circumstances where owner operatives make decisions for the firm the choice of which of these they practise comes into fine relief. The strategy of the firm in its market endeavours will affect partners’ practices and livelihoods. Issues of strategy, accordingly, have special significance as they direct the firm from one specialty to another. While it is true in most strategic decisions that the expertise of partners is considered in terms of their knowledge - for example partner A is a better litigator than any other partner so the board defers to her opinion in matters affecting litigation; it is also true that the expertise interests of partners is contested; for example the partners’ Board may shift the firm’s strategy and thereby advantage one specialty over another.
Of course, in any organisation, be it professional or not, there will be power coalitions, but the overt combination of ownership and professional practice make power dependencies more explicit. Partners risk their personal fortunes to a firm and demand the right of involvement in strategic decisions. One cannot say too much about such a particularism (Perrow 1986) without recognising that executives and others in non-professional corporations may have shareholdings in the firm but they do not have their personal fortunes risked to the business. That is to say, except for acts of criminality, an executive in an industrial corporation will not have her personal property at risk, but will risk her shareholding, whereas a partner in a professional firm risks both in all instances. If a partner in a legal firm takes a decision he binds the partners jointly and severally and their risk is not limited.

Greenwood, Hinings and Brown (1990:730) define these phenomena by arguing that, “Professional partnerships differ from other types of organizations in regard to two features: the structure of ownership and governance and the nature of the primary task.” Their data relate to large professional partnerships (Greenwood, Hinings and Brown 1990:731-734). Whilst the cases in this thesis are not limited to large partnerships, but do include them, it is worthwhile recounting some of their argument and emphasising key issues.

First, the strategic practices of any organisation will be affected by the nature of the industry in which the organization operates, that is, its institutional field.\(^7\) Where the field is tightly institutionalised, as professions are, (Hinings and Greenwood 1996), it is highly significant in structuring how firms operate and are designed. Second, as Greenwood et al (1990:730) put it, “A partner is an owner of a firm, is involved in its overall management, and is a key production worker.” Third, partners build their own client-base, or practices as they term it, and view any distraction from that practice as risky. If a partner is elected to become Managing Partner or achieves a similar position of leadership, this will typically be a temporary appointment and she

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\(^7\) Scott 1995 defines an institutional field as a grouping based upon industry, profession, or statutory definition, in which actors consider there is a community of interests. He argues that these tend to be industry based and are worthy of special attention. In the field work for this thesis and the examples cited by Greenwood et al the industry is professional and comprised of professional organisations.
will return to her practice afterwards. Indeed, in most cases examined in the course of this thesis, Managing Partners maintained their practice. Fourth, “the dominant characteristic of the primary task is that the work is almost entirely done by professionals” (Greenwood et al 1990:731), thus it is not amenable to close bureaucratic control. Fifth, these knowledge workers approach tasks holistically. The division of labour is premised upon professionals being assigned a brief. Even though it will be a partner who “signs off” such a brief the associate is professionally accountable for its carriage.

Professional organisations are therefore distinctive. They operate in fields that are more obviously shaped by institutionalization than others are. They are formed by professionals who have allegiances and are socialised to their profession’s norms, and while this research concentrates upon partners, one can recognise that employed lawyers represent a group socialised by status as lawyers, rather than by status as employees. These professionals operate in partnerships in which ownership and operation are intermingled and in which the primary task is acquitted almost entirely by professionals. So when professional organisations change they will do so differently than other organisations that are more subject to control by imperative authority. For all these reasons, the broad field of organisational theory, referred to in the opening paragraph of this chapter, based as it has been, for the most part, on large industrial and more recently service organisations, does not adequately represent the organisational structure, dynamics and social relations pertaining to professional firms.

The professions' role in society and the way they create and sustain specialized knowledge is a long-standing concern in sociology (eg. Parsons 1939; Perkin 1969; Morris and Empson 1996; Hall 1968; Johnson 1972; Larson 1977; Friedson 1986; Macdonald 1995). There are studies that focus on the individual professional's behaviour (Gouldner 1958; Lachman and Aranya 1986). However, surprisingly, there is not a wide literature on the matter of management of professional organisations (Greenwood, Hinings and Brown 1990; Galanter and Palay 1991; Hinings, Brown and Greenwood 1991; Morris and Pinnington 1996A, 1996B, 1998; Hanlon 1998; Nelson 1988). Management of professional organisations is related to the broader issues of creation of specialised knowledge; creation of professional role
and monopoly; and individual behaviour as a professional, on which, by contrast, as I indicated above, much has been written.

MANAGEMENT OF PROFESSIONAL ORGANISATIONS

There is a scarce but rich literature on management of professional firms. In the law one finds Cooper, Hinings, Greenwood, Brown (1996), Flood (1996), Galanter and Palay (1991), Morris (1996), Maister (1984, 1993A, 1993B, 1997), Mayson (1997), Nelson (1988), Morris and Pinnington (1996A, 1996B). In accounting one finds Greenwood, Hinings, Cooper, Brown (1995) Post (1994) Armstrong (1985). In architecture one finds Blau (1984). In health one finds Lachman (1995), Denis et al. (1996). If one further refines this list to those authors who have maintained a long term published interest in the field of professional organisations, then the researchers from the University of Alberta, Centre for the Management of the Professional Firm, along with Flood, Morris and consultants like Maister, are the major contemporary contributors. The largest body of work on the management of the professional organisations emanates from the researchers at the University of Alberta, (whom I shall refer to henceforth as the archetype theorists because so much of their work has archetype theory at its core).

The work that has been done on professional organisations includes examination of accountancy, architecture, health services and law. Brown, Cooper, Hinings and Greenwood (1996) surveyed large accountancy firms and identified what they termed underpinning interpretive schemes that produced complementary structures and systems. These interpretive schemes were seen as shared cognitive schemae that influential agencies promoted. They extended their work from accounting into the legal field and found similar circumstances within a sample of law firms (Cooper, Greenwood, Hinings and Brown 1996). Blau (1984) reports his analysis of architectural firms and note in particular the effect of professional socialisation on the templates of practice that were adopted. Most recently (Langley et al 1997), adopting the analysis developed by Hinings and his colleagues, report an elaborate and lengthy case of change in a Canadian hospital. Hospitals are a hybrid of industrial and professional organisation. Some parts, in this instance medical services, retain a form of professional practice in which professionals contract to the hospital; other parts, such as administrative services or catering, are tightly
bureaucratised. Langley et al (1997) reported that the notions first suggested by Brown, Cooper, Greenwood and Hinings (1996), from their observations in accountancy, were useful in interpreting the strategy of those in the hospital. That is to say that competing interpretive schemes and systems and structures were established in contest between schemes, with the dominant coalition organising matters. Each of these instances consider professional organisation and all but one uses the work of the archetype theorists (Greenwood and Hinings 1988; Hinings, Brown and Greenwood 1991; Cooper, Hinings, Greenwood and Brown 1996).

In the following sections of this chapter I shall describe the archetype theorists' theory base and analyse its utility for the current project. If we are to interpret the organising that occurs whilst a legal firm changes, or subsequent to a strategic change, then we need a theoretical basis for the inquiry and that basis should be recognisable within the discipline of organisational analysis. But more than this, if professional organisations are different from other more popularly discussed organisations, one needs a theory that contributes to the understanding of professional firms.

**STRUCTURING**

The most influential of the archetype theorists, Hinings and Greenwood, produced an earlier integrationist thesis prior to their interest in professional firms. This provided a sound base for understanding organising, particularly in professional firms. In 1980, Ranson, Hinings and Greenwood published their well known *The Structuring of Organizational Structures* in the Administrative Science Quarterly. The aim of this work was to demonstrate that structuration provided a way by which different traditions of organisational analysis could be integrated. It clearly set out a rigorous theory that bridged the micro-analysis of interactionists and the macro-analysis of structuralists (Donaldson 1988, Reed 1996). Its basic thesis was that elements inter-permeate each other so that organising is done reflexively. Their version of structuration theory provides the fundamental basis of this thesis. I term the theory that I use, reflexive archetype theory so as to emphasise the vital importance of structuring and integrating.
INTER-PERMEABILITY

Much organisational writing has proceeded from a functionalist basis, in which whatever exists, is seen to exist because it fulfils functions for the social order. Authors such as Parsons (1967) present a view of social order in which the actor is socialised by the existing moral framework into correct behaviour. The existing order is a legitimate given (Giddens 1968:264), and the functionalist actor learns to behave in accord with its precepts. Those who do not are misfits and abnormal, deviants by definition. Actors are permitted limited agency within structure by this notion of 'normative determinism' (Barnes 1988:26). Giddens (1976, 1984) sees this 'dualism of structure and agency' as problematic and argues that they should be re-constituted in terms of a duality, "in which power and structure are interpenetrated" (Clegg 1989:138). Giddens argues that a functionalist perspective, such as Parsons (1967) exemplifies, concentrates upon the reproduction of the forms that constrain human behaviour and is too deterministic a position. On the other hand, he asserts that "voluntaristic social theories, such as ethnomethodology or phenomenology, concentrate upon human agency as knowledgeable, creative and constitutive of reality" (Clegg 1989:138) and therefore produce claims for individual agency that are unrealistic. A more satisfactory explanation, is, he offers, that actors are constitutive of structure as well as constituted within it and that there is a duality of structure and agency. One aspect instantiates the other.

Ranson, Hinings, Greenwood (1980) directly apply the Giddens' notion of 'structuring structures' (Haugaard 1997:102) in their explanation of how organisations are formed and changed. The title of their work, Structuring Organisational Structures, is a reference to structuration and their wish to employ Giddenessque notions of practical consciousness, discursive consciousness and reflexivity to the interpretation of organising. Their notion of elements of organising, which they name contextual constraints, provinces of meaning, and dependencies of power, inter-permeate each other and therefore constitute, and are constitutive of organisation is based upon Giddens' theory of structuration.

Giddens (1984:18) argues:

Structure thus refers, in social analysis, to the structuring properties allowing the 'binding' of time-space social systems, the properties which make it possible for discernibly similar social practices to exist across
varying spans of time and space and which lend them 'systemic' form. To say that structure is a 'virtual order' of transformative relations means that social systems, as reproduced social practices do not have 'structures' but rather exhibit 'structural properties', and that structure exists, as time-space presence, only in its instantiations in such as practices and as memory traces orienting the conduct of knowledgeable human agents.

In this scheme actors will be practically conscious, discursively conscious, or unconscious of social knowledge. Individuals operate with tacit social knowledge, which, chiefly, is produced through practical consciousness. Practical consciousness refers to acting in a matter of fact way, going on, because this is the way things are, living practically but not reflectively. If actors are consciously aware of schemes of social knowledge, they know how to put these things into words (Giddens 1984) and are discursively conscious. When there is a mismatch between tacit social knowledge and behaviour then one is said to be unconscious and it is this unconsciousness that causes tension and modification of behaviour. So the scheme does not rely upon either a subjectivist view whereby actors create society, nor an objectivist view whereby actors are "cultural dopes" (Garfinkel 1967) structured into behaviour by society. The recursive patterns of individuals transmit tacit social knowledge. Social ways are created, chiefly, through recursiveness in the way we 'go on'. They may also be created, though less powerfully and only after they are institutionalised by discursive consciousness. Thus, Giddens'

"...emphasis upon the practical consciousness nature of social knowledge means that he can argue that structures are a form of social knowledge while simultaneously arguing that the act of structuration is not a discursively intentional act. In short, social order is the consequence of tacit social knowledge. (Haugaard 1997:103)

The notion of the duality of structure and agency provides a model through which the adopting of ways of organising can be conceptualised and is superior to a functionalist viewpoint. This can be extended by a model that equally celebrates the actor as constitutive, thereby removing 'dope status', but realises, "....that agency is denied to some and given to others" (Clegg 1989:158).

Clegg (1989: 185) further explores this theme, "Relations of structure and agency are fixed discursively. Any fixity of meaning attained is temporary and partial, creating
necessary nodal points through which discourse must occur (Gramsci 1971; Laclau 1983:22; Laclau and Mouffe 1985:113). In such a post-structuralist model one could agree with Laclau (1983:22) that,"

.....any structural system is limited,.....always surrounded by an 'excess of meaning' which it is unable to master and that, consequently 'society' as a unitary and intelligible object ....is an impossibility.

Clegg (1989:185) has identified this explanation, which relies upon the temporary nature of nodal points, as problematic. As he puts it,

The Laclau and Mouffe (1985) thesis of unstable articulatory practice requires revision. ....... Some nodal points are capable of being fixed in remarkably stable ways when viewed historically.

Bourdieu's notions of habitus, the legitimating of some individual or group's interests over others, captures some of the ways that this fixity occurs.

This legitimacy is taken for granted by those who accept it, and so an institution by its nature is conservative: those who are in sympathy with the existing institutional culture will find it easiest to satisfy criteria for advancement. In The Logic of Practice, Bordieu (sic) suggests that the regularities of institutions seem not merely necessary but natural, because those habits of mind which abide by institutional patterns and expectations are also produced by them. Because of this those who live in accord with institutional habits do not experience any coercion (Parker 1997: 39).

Within the law industry there are some remarkably stable 'necessary nodal points'. The structure of law making, law discovery by judges, and evidence taking are three which spring to mind that have been fixed for a long history. It can be readily seen that each of these enhances the agency of some, and denies agency to others. Therefore an explanation of the notion of prolonged fixity deserves inclusion into any model of inter-permeability of society. As Machiavelli (1958:49 cited by Clegg 1989) noted "Men nearly always follow the tracks made by others and proceed in their affairs by imitation, even though they cannot entirely keep to the tracks of others or emulate their models." Prolonged fixity will be transmitted by isomorphism, according to institutional theory, whether coercive, normative or
mimetic (Di Maggio and Powell 1983). Such isomorphism implies domination by some parts of the system over others, as institutions are shaped.

Conceptually, one may note that relations of agency and structure are fixed temporarily, social integration enhances some agency and denies other, isomorphism fixes some meanings more permanently than others, and some agents gain domination over others. The model envisages power and values transmitted throughout complex circuits in which different modes of rationality become constituted by actors. Meanings and disciplinary practices are 'translated' (Callon 1986), by agents who are differentially influential. So the power of Judges to 'discover law' in the practice of Common Law trials is relatively fixed and is transmitted through statutory empowerment and normative empowerment. The values which accept that whilst legislators make law, judges make it also, in their interpretation of it, is a stable feature of the Australian legal system.

Inter-permeability is vitally important to an understanding of structuring theory. It is a theory that accepts that actors are constituent and constitutive of society and relies upon Giddens' (1984) notion of structuration to explain inter-permeation. I have argued in this section that inter-permeability can be better understood if one proceeds beyond structuration towards a model that recognises the complex circuits of social relations which are constantly shifting due to discursive practices. I will return to this theme when, later in this chapter, I lay out the theory of this thesis in an integrated fashion. We should turn our attention now to a detailed explanation of structuring theory now that we have considered its antecedence in structuration.

**STRUCTURING THEORY'S PURPOSE AND FOUNDATION**

Ranson, Hinings, Greenwood specify three elements that inter-permeate each other and form the organising process. These, as mentioned earlier, are: 'contextual constraints' by which they mean the structure of the organisation and the institutionalising effects of the local environment; 'provinces of meaning' by which they mean, chiefly, the predominant system of values that is displayed by the use of artefacts in the organisation; and 'power dependencies' that are established to promote interests and to control agenda.
The purpose of structuring theory was expressed at the outset as:

... to argue for a more unified methodological and theoretical approach to organizational analysis in order to explain variations in structural arrangements. (Ranson, Hinings, Greenwood 1980:14).

And in another part of the same article the authors tell us that their work is about, “...explaining how organizations change over time” (Ranson, Hinings, Greenwood 1980:1). So structuring theory was, from its first discussion in the field, a unified theory of change sensitive to both agency and structure. Nonetheless, organisational structures are seen, “to imply a configuration of activities that is characteristically enduring and persistent; the dominant feature of organizational structure is its patterned regularity,” (Ranson, Hinings, Greenwood 1980:1). Variations in these factors and the time scale the observer applies will produce variations in the structure of the organisation observed.

Structuring theory is complexly inter-related. Each part depends upon each other part. One should always keep in mind the overall pattern while observing any one aspect of it. Nonetheless, one can consider each of these features as analytically separate.

**Contextual Constraints**

A commencing point for archetype theory is that all aspects structuring society are mutually constitutive of society and constituents of it, and each actor has more or less power in these constitutive processes (Giddens 1984). Thus, a lawyer who practises law does so within the laws of society and forebears the rewards and punishments that such practice brings. The activities of the lawyer will be limited by statute and by professional practice requirements of a certificating body, such as the NSW Law Society, and the lawyer will have been socialised by many things, including the College of Law attended. Moreover, this very practice affects the systemisation of the law. Compliance with conservative mores will reinforce those mores. Introduction of successful innovation may produce changes in legislation, practice rules or syllabus. We are all of us trapped within this web and weavers of it; though some have more influence than others do. Those of us who follow societally
accepted design rules reinforce those rules and their associated disciplinary practices (Foucault 1977).

As was noted in the introduction, lawyers are required by statute and the rules of their professional association to practise law only within businesses that are legally structured as sole traders or partnerships. Thus, if lawyers were to establish limited liability corporations in which law was practised they should do so against an overall currently accepted design rule. They may be disciplined to return to the original design rule or this new behaviour might, in time, be acceptable and become the new design rule. Whichever way they move they affect the design rules. There is currently within Australia\(^8\) discussion concerning exactly such a change (Wade 1998, King et al 1997). These discussions reflexively affect the design rule. In NSW there is a strong reaction against such a proposal, while pressure in Victoria sees it as much more acceptable. If Victoria legislates for change then contextual constraints, the coercive statutory power of States, and the normative power of professional associations, will change. The attractions of the company format, particularly limited liability, and the capacity to raise equity, might entice legal firms to register for business in Victoria and then place considerable competitive pressure on other States to alter their legislation. Elements of legitimacy and efficiency would be involved in such a social innovation.

Structuring theorists explain the inter-permeability of social systems by this reference to "structuration" as Giddens (1984) calls it. Whichever actions are taken by social actors they will, depending upon their power, affect the design rules of society, yet they are constrained by the current design rules. This notion, that actors are constitutive of society and constituent of it, suggests a form of inter-permeability of aspects of society with differential power. It is consistent, at a different level, with Granovetter’s (1985) notion of embeddedness. We each of us are embedded in our sum of experiences and immediate environment. We affect it, and are affected by it, more than by indirect environments (Thompson 1967). Similarly, an academic who

\(^8\) States of Australia legislate for the affairs of professionals within their boundaries. As the system is Federal there can be some tensions between States and the Federal legislation. The thesis analyses New South Wales legal firms, which are constrained, chiefly by NSW legislation. The adjoining and next most populous State is Victoria.
writes about management of professional organisations is embedded in an academic complex, with all its institutionalised ways, and affects that complex relative to his or her power in the field.

Structuring theory thus understood is vitally complex. It is unlikely that one can always accurately specify which force or element was more or less influential in any specific transaction of institutional creation or transmission. In our legal examples we need to consider the environment within which the firm operates, its economy, its law and its norms, but as we do so we note that behaviour in the firm may affect these elements. Similarly the values of those in the firm will reflect their socialisation within the firm and the broader society and the attitudes expressed in those milieux. But power cannot be omitted from the formula. Issues such as the size of the firm, the influence of its partners in professional and legislative circles, the strength of the currently dominant coalition within the firm, and its mirror in the wider society, need consideration. Firms are not things that change in systems closed from others. They are comprised of people with varying values, power, and interests. They are structured in ways that reflect these mixes and the prevailing practices of the industry.

One type of contextual constraint that has been given already is the organisation's environment. Actors face institutionalised constraints. Our behaviour is constrained by institutional variables such as the law, professional regulatory bodies, and unwritten rules of our (particular) civil society. Thus the lawyer must, by law, keep trust funds in certain ways; in terms of professional norms, must maintain continuing legal education; through mimesis, must behave properly in the eyes of colleagues. DiMaggio and Powell (1983) have noted that forms of organising are replicated in society by coercive, normative and mimetic isomorphism, and these correspond to my example. So one of the contextual constraints is the institutional environment which will vary in different parts of society. The law has a highly regulated, in all three senses of the words, institutional environment, yet some parts of the legal industry are more constrained than are others. Additionally, any lawyer practices in a temporal environment that is typified by competition, specific market conditions, and industry circumstances.
The constraints discussed in the previous paragraph have been economic and institutional. These can be considered together as 'environmental constraints', though recognising that there may be considerable tension between these two varieties. For example, the rules of practice defined by the institutional constraint of the law may impose a rationality on actors that is inimical to adjustment to economic constraints. For example, lawyers in NSW cannot raise finance for their firms through equity offers, because statute and professional regulation forbid this and by definition, normal behaviour of lawyers has never done so. However, there may be pressing economic reasons that suggest the most financially prudent course is to publicly offer equity in the business of the lawyer, but we can understand that this course would not be taken. The notions of professionalism that are learned in the wider society will form an environmental external\(^9\) constraint to professional practice.

An additional form of constraint is organisational. These constraints can be further sub-divided into three varieties: size of organisation, technology of the organisation, and resources. These first two can be readily recognised as "from within the argument from contingencies" (Lawrence and Lorsch 1967 cited in Ranson, Hinings, Greenwood 1980:9) for which there is a voluminous literature (Pugh and Hickson 1976, Donaldson 1985). The third relates to resources and the manner in which organisational strategy can be resource dependent (Pfeffer and Salancik 1974, 1978, Thompson 1967). Some agencies accrue power by control of those resources. Resource dependency theory proposes "that crucial external resources factors affect a large proportion of organisational actions" (Clegg and Rura- Polley 1998) and that some sub-units in organisations become more powerful than others because of connection to these agencies. Thus, in a partnership of lawyers which also employs staff, we should expect that some actors would have more or less power over resources than others do, and that this power can become habituated within the ways of the organisation. An example of this would be the partner who sits upon several powerful strategic Boards of Directors external to the legal firm. Power accrues to his firm and through his participation and critically to these relations, provide this particular partner power over exchange between those interests represented by the

\(^9\) It is not suggested that there is some recognised boundary that defines the internal and the external of the firm. Rather, the term is used as an accounting convenience, in the same way that one speaks of organisations as things, full knowing they are not.

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Board and with his legal firm. It can be seen that the partner has strategically positioned himself in two 'necessary nodal points' in the streams of power that flow through the legal industry and its corporate clients (Hardy and Clegg 1996). It is through this positioning that he gains power over resources. This seems a more critical consideration than episodes in which the resources may be allocated.

Contextual constraints are related to the notion of inter-permeability and are phenomena that attract the interest of actors and are then interpreted by these actors. What one actor sees as a problem, another may see as an opportunity and yet another may not note. To ground the matter, we will discuss a legal example in some detail. Let us take the notion of the structuring of legal firms. There are external environmental constraints on these. The lawyers risk their practising certificates issued by their Law Society if they participate in a limited liability company which carries out legal work. All lawyers are socialised into expecting that the normal form of legal business is partnership. This is seen as accommodating values of professionalism, independence and community service. There may be pressing economic environmental pressures that suggest that senior equity partners introduce more managerialist features into the firm. Perhaps they decide to employ a non-lawyer as their Chief Executive Officer and arrange their affairs so that meetings of partners approximate those of Boards of Directors with that employee to implement decisions. They might also offer this Chief Executive Officer some form of equity in the business (though it could not be in the legal partnership unless she were a lawyer) or profit share. These practices are extant in legal firms of NSW but they are not universally welcome. Some lawyers see these types of acts as inevitable responses to changes in the environment, as commercial realism. Others see such types of acts as diminishing the nature of professional practice, as bureaucratisation.

**Provinces of Meaning**

There is a form of institutional theory that suggests that social actors interpret their surroundings in such a way as to construct their own social reality and indeed that these surroundings are always socially constructed (Berger and Luckman 1967). To continue with our argument of inter-permeability, an actor will be socialised by his or her institutional world, which is seen as the rational means of action, and will
interpret events from this developed *schema*. Additionally, the actor's behaviour will help to construct the social reality. Ranson, Hinings and Greenwood (1980:6) give the example of a professional who may have an underlying interpretive scheme that acknowledges the manner in which she should respond to clients, colleagues or others. This is normally not articulated, however some elements of this professional mantle, perhaps autonomy, public service, or ethics may be explicitly stated in certain instances.

The structuring theorists use such an approach to explain provinces of meaning by reference to an underlying cognitive scheme. They refer to this as the interpretive scheme. They argue that groups of people share these interpretive schemes and, though their commitment to them may vary, it is this common interpretive scheme that binds them. This is equivalent to what Schein (1985) called underlying assumptions. Interpretive schemes are neither explicit nor necessarily recognised by actors. Other authors, notably Schein (1985) and Van Maanen (1983), refer to underlying assumptions which are present but unseen.

Structuring theory argues that parts of the interpretive scheme will occasionally be explicit and suggests that an analyst can infer interpretive schemes when they are not explicit. For example, Schein (1984) argued that there were two more layers in the construction of what we are calling here provinces of meaning. These are values, which are explications from underlying assumptions and may be espoused or enacted, and artefacts, which are used by actors who share values. Schein suggested that underlying assumptions are not explicit whilst values are expressed and use of artefacts is explicit. His separation of a potentially present cognitive scheme of underlying assumptions that is not explicit from levels that are noticeable is worth noting. It permits the researcher to describe phenomena and restrict analysis to this level, without denying that noumena may be underlying.

Ranson, Hinings, Greenwood (1980:4-5) argue that “... interpretive schemes ... enable us to constitute and understand our organizational worlds as meaningful ...” They refer to, “the indispensable cognitive *schema* that map our experience of the world, identifying its constituents and relevance and how we are to know and understand them.” In the same passage they argue that these interpretive schemes are
taken for granted and mostly unarticulated but that they can be explicitly articulated. They argue that groups share meanings from common interpretive schemes. Thus they introduce a cognitive basis for their theory.

The argument suggests that we have interpretive schemes that we learn through environmental socialisation. These schemes enable us to understand our world. Indeed they channel our understanding of our world. Others share interpretive schemes like ours. Thus we operate similarly and reinforce our understanding. These interpretive schemes are not normally explicit but may be. Some groups whose socialisation or contextual constraints are intense will have strongly entrenched interpretive schemes. Interpretive schemes underlie values which are explicit.

To return to the Schein spiral we can anticipate that groups will use artefacts commonly; they might share a ceremony or language. Lawyers, for example, might behave and speak in a consistent manner whilst in Court, or might respond in a broadly consistent manner to cases which could be seen as in 'conflict of interests'. Lawyers might express their belief that the form of business that they operate within is part of the mantle of professionalism. But, then again, these artefacts of ritual, of language, may be differentially used. Here then we need to look at populations, at groups, which share meanings. We need also to recall that context will affect provinces of meaning and be affected by them and thus populations will construct their provinces of meaning within contextual constraints.

We cannot assume that these groups will be unanimous in their values. Homogeneity, if it is seen, is chimerical. The individuals who make up the group, or the population, will each have variations around some imaginary mean of acceptance of the values of the population. There will be some just barely accepting of the population's values as to remain members, and indeed their fissiparous behaviour may eventually cause new design rules, as we discussed earlier. There will be others perfectly conservative of (pre-)existing values and some wavering around the mean of this imagined values bell curve. But values of a population are not inert characteristics like height or eye colour (that seem immutable on a short time scale). They are affected by the more powerful in the population who can control necessary nodal points and promulgate their translation of values. So the founder of a firm has
more say in the values of the firm than a new recruit (Trice and Beyer 1994). The President of a Law Society has more influence than a law student does. And of course interest affects one’s motivation to seek positions of influence. Positions of influence will contest with each other to create dependencies of power in populations and thereby achieve domination of the province of meaning.

**Dependencies of Power**

When we undertake certain roles and attach more or less power to one role or the other we are structuring an organisation and we do so inter-dependently of context and provinces of meaning. Some of this activity might be explicitly clear to all members of the organisation. We may, for example, publish an organisational chart that specifies the officially determined hierarchy of offices, or an office manual that specifies procedures and authorities. These artefacts are formal expressions of who has power over decisions in the organisation and it can be seen that these expressions legitimate the allocation of resources, social relations and systemic discipline. For example, a legal firm may have several classes of partners, one variation might be equity partners and contract partners. Typically such a firm would reserve some decisions over allocation of resources, such as distribution of profit, to the equity partners. At another level the same firm might expect one of its partners to be accountable to the partnership to develop employed lawyers so that they can progress to partner level, and accordingly spend resources of the firm on continuing legal education, mentoring projects, secondments to clients, or the like.

At this officially explicit level the partners probably will make efforts to coordinate powers in the organisation to smooth regular processes and to separate extraordinary matters for decision at the peak level of equity partner meetings. So a decision to send a Senior Associate (employed lawyer) to an international conference will be authorised by the Staff Partner whereas the decision to offer a partnership to a Senior Associate will require peak level approval. However, there is another level implicit within this scheme. Each of the actors has interests and may act to support those interests. Structuring theory acknowledges these features of agency and interest but in its exposition relies on resources dependency to explicate dependencies of power.
Clegg's theory of 'circuits of power' (1989), to which I alluded in earlier paragraphs, presents a model of social systems that includes these notions of agency and interests but is extended by discussion of facilitative power and dispositional power. He argues that these three types of power are implicated in a complex circuits in which vital control points are contested. The outcome of these contests form dependencies of power. In the next section I present this theory in detail which is consistent with the concept of dependencies of power while extending it in ways that are useful for this thesis.

CIRCUITS OF POWER

Clegg (1989) comprehensively reviews the power literature from Machiavelli and Hobbes through modern European and American thinkers. In the course of this survey he systematically explicates theory, identifies problems within it, and extends it. Finally, he provides a model that seeks to repair inadequacies he has noted in previous theories. He argues that power can be considered as circuits, circuits of power, that move through obligatory passage points, synonymous with necessary nodal points (Laclau and Mouffe 1985). "The two defining elements of any power system are agencies and events of interest to these agencies" (Clegg 1989:213). His definition of agency is wide, and specifically includes the inanimate and technological. One notes in the model three levels of circuits: agency, which focuses upon episodic power relations and is a causal type of power; social integration, which focuses upon rules of practice and is a dispositional type of power; and domination, which focuses upon system integration and is a facilitative type of power.

Agency

Agency is the 'normal' power that is often discussed in social science (Hobbes 1839; Dahl 1957; Lukes 1974). It is causal and episodic. Examples of this from the legal industry would be a Staff Partner invited to authorise a Senior Associate attending a conference or a grouping of partners considering entry of other partners. The Staff Partner, at a mundane level, may need the Senior Associate to remain in the city, rather than attend the international conference, so that a matter with which the
partner is dealing may be expedited. At a more strategic level the partner proposing a Senior Associate for admission to partner may suppose that in the medium term this will emphasise a direction in the firm that favours his or her interests. To smooth admission the partner might lobby other partners and the decision at Board level would then reflect a coalition of interests that have been assembled for this decision. They might also reflect a more or less permanent grouping, as in the example of the strategic direction of the firm. Such a power circuit would be existentially real but would also rely upon translation of what it represents by the interested agencies.

Most of the arguments concerning power in organisations proceed from an agency perspective. Often, they miss the point that the agency circuit operates within the influence of structures of dominancy and their disciplinary practices. One thus realises that the 'normal' view of social science can seduce an analyst into a form of organisational politics relying solely upon resources dependency or strategic contingencies (Aldrich 1979; Pfeffer 1981; Child 1972) in which the rules of practice that enable the structure of dominancy are taken as given. Thus Clegg (1989) presages the social integration circuit.

**Social Integration**

Social integration can be understood as the institutionalisation of the rules of practice in use at a point of time. There is an implication in any consideration of power that a dialectic will exist, a vector formed by resistance to power. The prisoner resists, or understands that resistance is appropriate where possible. The psychiatric patient doubts the medical description of abnormality. The lawyer debates the professional templates that were learned in Law College. The notion of resistance shows that we do adopt disciplinary practices that are routines of power. This is not to say that a normal circumstance of a system is conflict. Rather is it to say that legitimised disciplinary practices hold us in thrall. Examples of this from the legal industry could be seen in the following. In a legal firm, certain partners, although notionally equal to others, may have extra powers. One of the partners may be a founder, or especially revered for litigation skills, or particularly well connected within the legal or political fraternity. Whilst these power sources may initially involve partners' control over resources applied episodically, it can be understood that a 'way of doing business', a
mode of rationality, may evolve in such a firm. That is to say, exercise of influence will routinise matters. Those in the firm will go on, as Giddens (1984) might put it, and first practically, then discursively, conscious routines will come into being. Rules of practice will become explicit in rules of decision making. There will also be implicit rules, which are tacitly known. These may vary from case to case but it is likely that through time patterns of power may be recognised by an observer with access to a history of the firm. Because of the myth of collegiality that exists within professions, a myth that is practised in some firms, but not all, the overt contest over provinces of meaning is a feature of law firms.

Cooper, Greenwood, Hinings and Brown (1996) trace changes in the interpretive schemes of legal firms and explicitly note that the partners in power exercise most influence on the meanings adopted. Of course there is some notion of strategic agency in all of this. Agents must influence others to ensure that that which becomes the accepted substantive rationality serves their interests. Thus, in the cases cited by Cooper, Greenwood, Hinings and Brown (1996) it made sense to accept, relatively unquestioningly, the rules of practice preferred by the dominant coalition. But how might these coalitions' rules of practice be integrated into systems? This introduces Clegg's (1989:214) notion of system integration.

**System Integration**

System integration can be understood as the circuit of power in which domination is contested and when fixed in decision, facilitated. For the purposes of this section we might consider a new form of organising as an industry innovation. It is within the circuit of system integration that this organising mode will compete for domination, through translation, establishing necessary nodal points and transforming the rules fixing relations of meaning and membership. Translation is implicated in both the social and system integration circuits. It refers to the process of establishing that there is a problem to be considered; interesting other agents in one's cause; enrolling the alliance of agents into the meaning as it is intended by the first agent; mobilizing the alliance and ensuring that meaning is not mis-assigned. Translation within the social integration circuit will ordinarily transmit by institutionalisation. Within the system integration circuit efficiency is also implicated.
The circuits of power develop a formula for domination which is built up from many small episodes of power and their representations. It is a complex model that permits the analyst to observe through a 'representation of power' (Clegg 1989:232) in which power transmits and is resisted. It is particularly apposite for a study of a professional organisational field, such as law, which is highly isomorphised and old. As Clegg (1989:237) argues "systems whose circuits of social integration are highly isomorphic will hypothetically be better able to respond to system innovation in a productive fashion." Clegg (1989:198) argues that the circuits of power model will aid an analyst ". . . identify. . . which national, state, legal and organizational characteristics and practices will produce systematic variations in stratifying outcomes that are constructed in terms of. . . key markers of identity and, . . . studying the organisational cultures in which they find particular types of expression."

The model, which describes power as an essentially contested concept, transmitted through three distinct circuits of episodic, dispositional and facilitative power, carried always by the organisation of agencies is set out below (Clegg 1989:214 and 239).
Figure 2.1 Circuits of Power

Organisations are sites of power dispute and tools for those in power to pursue their interests (Perrow 1986). These disputes and pursuits will be tempered by contextual constraints, for example the market conditions might increase one partner's power base; for another example the institutional rules of the Law Society may vary and decrease the powers of a grouping of partners. They will be tempered by provinces of meaning accepted by members within the organisation, for example a partner may have explicit power to enter into an agreement with an accounting firm to provide network services to a corporate client but operate within a firm that decrtes the professionalism of such joint practice. Indeed, many, if not most, of the decisions and just as importantly agenda for decisions, will occur within this web of explicit and implicit rules in an unconsidered way. Agents within the firm understand that it is just the way the firm is. As Clegg (1989) argues, power is most effective in instances when it is unnecessary, when the meaning of the firm has been defined (Dunford 1992:204), when the framework in which power is exercised is a value of the members within the firm.

Circuits of power theory can be seen as usefully extending structuring theory and remaining within an integrationist project. However, neither of these two theories was explicitly developed for use in professional organisations. Whilst they are apposite for such analysis when used individually, they are stronger when used complementarily. There is, in addition, a third brace to the theoretical framework that was specifically developed for use in professional firms. In this next section I set out details of this brace, archetype theory.

ARCHETYPE THEORY

Greenwood and Hinings (1988) tell us that "Particular interpretive schemes coupled with associated structural arrangements constitute a design archetype." Archetypes are ideal types whose construct "becomes a function of the isolation of clusters of ideas, values and beliefs coupled with associated patterns of organizational design" (Greenwood and Hinings 1988:295). They agree that organisations have a limited number of configurations, structures and strategies and that,

configurations are composed of tightly interdependent and mutually supportive elements such that the importance of each element can best be
understood by making reference to the whole configuration" (Miller and Friesen 1984:1, cited in Greenwood and Hinings 1988:294).

This is the notion of inter-permeability and reflexivity that we find in their earlier work on structuring. However, as the piece unfolds, the reader finds that they have isolated the notion of structuring to the internal dynamics of the organisation. The organisation is of course connected to its external context, as Pettigrew (1987) would call it, but this external context is the place of archetypes and interpretive schemes. Structuring provides an explanation for the processes that occur when firms seek coherence, which is the equilibrium state.

Importantly though, one has to read their related and more extensive exposition of this theory in their book Dynamics of Strategic Change (Hinings and Greenwood 1988) to properly understand ‘equilibrium state’. In that work they emphasise that equilibrium is dynamically attained but rarely maintained. Any stationary point is but a pause on a track of change. Change is normal. They argue that coherence is important and can be obtained through a reflexive iteration between contextual pressure and value commitment, which are pressures to change, and leadership and expertise, which are enablers of change. Organisational coherence is therefore also dynamic.

Other writers have suggested that coherence among several elements will establish a stabilised organisation. Notably, Mintzberg (1979) and Miller and Friesen (1984) have argued that the basis of organisational coherence is the relationship between structure, strategy and environment. In this model, strategic decision makers who shape the structure of the organisation to retain competitive advantage within its environment, bring about fit, with changing or changed circumstances. Mintzberg (1983) has set out a complementary notion that stakeholders within and around an organisation form coalitions of power to affect the strategic decisions of the organisation.

10 We can understand that any strategic decisions will emanate from the interplay of the three elements of contextual constraints, provinces of meaning and dependencies of power and are embedded within society (Granovetter 1985).
Hinings and Greenwood (1988) note some of these arguments of Mintzberg (1979) and Miller and Friesen (1984) but argue that these should be tempered by Ranson et al (1980) who established that coherence comes from the relationships between provinces of meaning, contextual constraints and dependencies of power. Their argument is that each of the inter-connected elements will tend to equilibrium so that the firm’s strategy can proceed. This equilibrium may be contested and unbalanced, hence dynamics in organisations, but the most frequently observed state will be equilibrium. The argument of coherence, which we have thus far explained, can be seen as an elaborated, improved version of arguments (such as Miller and Friesen 1984, Van de Ven and Drazin 1985) that organisations are *gestalts* or ensembles of several elements. In suggesting that “coherence comes from the consistent relationship between an interpretive scheme and an organization’s structures and systems” Greenwood and Hinings (1993:1058) succinctly elaborate their argument\(^\text{11}\).

There are two convincing theoretical reasons for anticipating that organizations will develop structures and systems consistent with a single interpretive scheme. Miller and Friesen (1984) provided one such explanation with their concept of “momentum,” describing organizations as evolving towards archetypal coherence because for any firm it is better to be one thing consistently than to be a combination of ill fitting parts. In effect, they acknowledged the economic benefits that flow from coherence. A rather different explanation recognizes organizations as composed of groups whose positions of relative advantage and disadvantage are shaped by the organization’s design (Johnson, 1987; Pfeffer, 1981; Walsh, Hinings, Greenwood and Ransom, (*sic*) 1981). Structures and systems allocate scarce and valued resources and indirectly legitimate and perpetuate distributive inequalities by the consistency of the cues and messages transmitted. An organization’s “dominant coalition” will seek to remove discordant structures because of the risk of challenge of the status quo.

In summary, the elements that we find in structuring inter-permeate and form a configuration, an organising mode. Because of institutional legitimacy, economic efficiency, or domination, these tend to coherence. This is no more, nor less, than a very cogently argued rehearsal of their original thesis of structuring.

\(^{11}\) The issue of interpretive schemes will be taken up in detail in the next section.
It is the introduction of archetypes, a concept first mentioned by Miller and Friesen (1980), that marks a watershed in Hinings and Greenwood's work. The integrationist project they commenced with Ranson, Hinings and Greenwood (1980) faded as they commenced close analysis of professional firms. They site their work within an institutional tradition and postulate that institutional templates, qua archetypes, can be found in institutional fields defined by professions.

The authors engage in some admirable hermeneutic logic. If we examine organisations in an institutional field we notice that they organise similarly (di Maggio and Powell 1991; Scott 1995). This isomorphism occurs due to coercion, norms or mimesis. If structuration causes organising then there must be a design preference that is learned institutionally. This design preference, design type emanates from a shared cognition, an interpretive scheme. Therefore they conclude that

A design archetype is thus a set of ideas, beliefs and values that shape prevailing conceptions of what an organisation should be doing and how it should be judged, combined (sic) with structures and processes that serve to implement and reinforce those ideas (Greenwood and Hinings 1988: 300).

For these authors an archetype exists in two states. It is an ideal type constructed by analysts and, it exists phenomenally. Greenwood and Hinings (1988:300) explain:

Within this general notion (of constructed types) we are closer to the notion of an ideal type than an empirical taxonomy. That is, it is entirely possible, as with all ideal types, that our observations of empirical occurrences could yield nothing but deviations. To establish an organisational design archetype, underlying values have to be first isolated and the structural and processual implications analysed, by the observer. . . It is therefore possible (but not very likely) that no organisations exist which exactly conform to the archetype.

This is the last time in their discussion of archetypes that much attention is given to the notion of archetypes as ideal types. For the rest of their publication they proceed on the basis that archetypes exist. As I will justify later, this is not a position that I adopt.
The archetype theorists consistently use the metaphor of evolution. Like all metaphors the fit with argument is broadly reassuring but specifically unsettling. The metaphor suggests gradual action, pursuit of personal interest affecting communities, the absence of an over arching design or designer. Evolution, as Darwin (1859; 1871) would put it, occurs through incremental randomised actions within larger populations that tend to emphasise features which are better fitted to environmental circumstances than others. A species will be seen to have evolved when it is separate from its parent species. For example, chimpanzees and humans evolved from a common ancient ancestor species but they are now separate species. We can understand that evolution will comprise myriad minor variations, some of which are moribund; so several genera of a species will evolve but they will recognisably be of the one species. This is the circumstance with archetype theory. It has evolved generically and its current model can still be traced to its original elements of structuring though its emphases are different. In this next section I trace the increments in the evolution of archetype theory.

**EVOLUTION OF ARCHETYPE THEORY**

In 1980 Ranson, Hinings and Greenwood (1980) argued that organisations tend to coherence in three elements: contextual constraints, provinces of meaning, dependencies of power that are mutually inter-dependent. At that stage their project was to demonstrate that organisational analysis could be integrated. By 1988 Greenwood and Hinings (1988) had developed a new project. Their interest had shifted to typologising organisations by comparison with a design type and then analysing the dynamics of change of organisations as they moved toward or away from these design types. This work was to introduce the notion of archetypes into organisational analysis in a way that made it extremely useful for those empirically studying professional firms. The construct was operationalised in studies by Hinings, Brown and Greenwood (1990), Brown, Cooper, Greenwood, and Hinings (1996); Greenwood, Hinings and Brown (1990); Slack and Hinings (1992), Thibault, Slack and Hinings (1991).

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12 Of course, organisations may not have a Designer but there is an intentionality in influence exerted by actors in the organisation and some will act with more power than others.
Hinings and Greenwood's work evolved from structuring theory, adapted to North American circumstances and developed as substantial variant. I will argue that this variant can be employed as a sub-species of structuring though, in the studies I have cited above, insufficient attention has been given to reflexivity or integration. Greenwood and Hinings (1988:294) name the progenitors of archetype theory as structuring theory and Miller and Friesen's (1980) notion of archetype as a gestalt of coherent organising processes. They refer, en passant, to "the need for a measure of synthesis and a more explicit understanding of the dynamics of change" (Greenwood and Hinings 1988:293) and sufficiently refer to structuring for one to believe that the archetype project would also attempt an integrationist line. This was not to be. The line of work that emanated from this defining article, (Greenwood and Hinings 1988) was to emphasise institutionalist issues and increasingly concern itself with reflexivity.

The first notable increment occurred in the work, Design Types, Tracks and the Dynamics of Strategic Change when Greenwood and Hinings (1988:295) argued:

> The structural elements and organizational processes making up the design type are strongly underpinned by provinces of meaning and interpretive schemes which bind them together in an institutionally derived normative order.

This first increment made the interpretive scheme underpin all else and would seem to undermine the sense of inter-permeability and reflexivity that was a feature of structuring; particularly as archetypes were seen as actual organisations as well as imagined ideals. It gave special status to institutional legitimation in design types.

In the same paper Greenwood and Hinings (1988:296) argued that archetype theory presented a more developed theory of organisational change. Specifically, they noted that the archetype provided “the starting point” for organisational analysis; archetypes were a pattern of coherence of meanings, structures and processes; momentum, inertia and change were principles of directing change; context, values, interests and power were categories for explaining the relative causation of change.
This second increment makes the archetype, which initially had been an hermeneutic outcome, into a variable with which one should commence one’s inquiry. The three elements are categories for explaining the relative causation of change.

By 1993, in *Understanding strategic change: the contribution of archetypes*, Greenwood and Hinings (1993) were to argue, “An archetype is thus a set of structures and systems that reflects a single interpretive scheme.” Later, Cooper, Greenwood, Hinings and Brown (1996) were to argue that archetypes were likely in organisations and that, “our view of archetypes stresses not only the configurations of structures and systems but also the importance of common orientation or underlying interpretive scheme that offers ideological coherence to the configuration.” Now they were to argue that one could uncover sediments of archetypes in the history of the firm. There are contests between agents to promote different archetypes. The competitive commitment by varying factions produces archetype incoherence, however, due to the need for efficiency and legitimacy such incoherence cannot remain. The contest must be decided, or else the firm will fail. In this latest increment the archetype provides ideological coherence, which along with sediments of discarded archetype can be located in organisations. Importantly, by now, attention to structuring notions had dissipated, if not disappeared. Though at the outset, structuring explained the actual arrangement of elements of an organisation that could be compared with an institutionally derived design type, at this point a limited set of elements rest upon an interpretive scheme which legitimated actual arrangements.

There thus appears a sense of idealism, in which interpretive schemes are real and paragon, rather than Weberian ideal, in which interpretive schemes are ideational and typical. It is quite probable that this evolution has been due to the utility of archetype as social theory. The researchers have used this social theory over two decades and it may be that the subjects of the research have internalised the notions. Giddens (1984) reminds us that social theory that is useful becomes recursively used by agents and assumes a place in social structure and this may explain the shift.

One needs to consider all their work to appreciate its consistency and complexity as some writings emphasise one feature over another. There has been a notable
tendency not to emphasise the reflexivity of affairs in their work since 1988. Similarly there has been less of an emphasis upon the heterogeneity of values within a society and an organisation since 1990. These may not represent a resiling from previous positions, more an emphasis of the work at hand. The evolutionary lines back to progenition in structuring theory can still be traced, but lightly, in the work of Hinings and Greenwood.

Nonetheless, some derivative authors have adopted stances regarding archetype theory that appear to detract from the reflexivity of the initial structuring model. Thibault, Slack and Hinings (1991), in their article on sports associations, write as if interpretive schemes are homogeneous and can be managed in a way that designs culture as Peters and Waterman (1982) would have suggested. The same article concentrates upon the funding body and sporting associations as if they existed in a closed system. This form of archetype theory de-emphasises reflexivity.

In a body of work that has unfolded over 20 years it is likely that readers and derivative authors may choose some aspects of the theory over others. This may be particularly so if later work does not re-visit its origins from time to time. Thibault et al. (1991) gloss over two vital features of archetype theory's parent, structuring. First, they write as if culture can be designed whereas Greenwood and Hinings (1993:1056-1057) were at pains to dissociate themselves from such a determinist position. Second, they write as if values can be homogeneous in an organization.

These tendencies towards simplification of the corpus of work associated with archetype theory lead me to emphasise reflexivity in my version of archetype theory. I want to retain some of the conceptual vigour and sophistication of the early program while adding to it in the light of more recent allied but distinct scholarship. The theory that I use continues the integrationist project through constant reference to structuring. It uses archetype theory as a means of typologising. It extends both of these works by a circuits of power analysis.

Hinings and Greenwood write little on structuring after the initial suggestions that organisations are reflexive systems whose elements of power, values and contextual constraints cohere (Ranson et al 1980). A link can be made between structuring and
archetypes though they have not so attempted. Their typologising project has taken their attention. In this, seen as a body of work, there is a consistency, wholeness and development from theory to data collection, interpretation and incremental growth, if one bears in mind the exceptions and tendencies noted above. Archetypes provide a means of developing typologies of organisations. Archetypes can be used in tracking change. A consistent tendency to archetypes is more likely in tightly institutionalised settings than in others.

In this thesis, the theoretical position is taken that archetypes are reflexive systems and must be seen as an imagined outcome of a process rather than any starting point. Thus an interpretive scheme cannot be a variable. Organisations will tend toward an archetype in concert with the outcome of competitive contest. One might see through history that an organisation has tended toward differing archetypes and it is these organising modes that provide sediment.13

ARCHETYPES AND IDEAL TYPES
Archetype is a word with Jungian undertones. It may also be seen as having Platonic undertones. Both are forms of cognitive theorising. Jung (1969) suggested that people have deep-seated archetypes in their psyche that underlay much of their action. As Bowles (1993:396) reminds us, Jung asserts that there is a layer in the unconscious

\[\ldots\text{referred to be (sic) Jung as the 'objective', 'collective' or 'universal' unconscious. The contents of the collective unconscious belong to each and every individual and trace the collective history of human beings through oft-repeated experiences that become etched into the human mind. Jung (1969: 227) states, 'Archetypes are the river-beds along which the currents of psychic life has always flowed'.}\]

One cannot see these nor hear of them unless during analysis. The analyst, in this case a psychiatrist, attempts to understand behaviour by reference to deep seated schema which he or she presumes to exist. It is apparently a useful device for some analysts. It is a construct that is seemingly reliable though its validity cannot be tested. As Popper (1969, 1972) would put it the hypothesis that Jungian archetypes

\[\text{13 This is a fine point as I argue later that archetypes are best considered as ideal types.}\]
exist cannot be falsified. Similarly, the Platonic philosophy that there are essences or pure elements of which we experience shadows in this life, upon which Jung based his concept, of course cannot be falsified. "Jung (1968a: 101) actually queries the historical explanation of archetypes when he confesses "whether the archetypes ever originated at all is a metaphysical question and therefore unanswerable". He adds that if they ever originated, "their origin must have coincided with the origin of the species" Such an essentializing approach to archetypes is inappropriate to organisational analysis as it undermines any project of tracking organisational change. The Jungian notion of archetypes is akin to Platonic real forms. They are immutable. Archetypes, as they are used in organisational analysis are mutable, whether in an ideational or a phenomenal form.

As, Greenwood and Hinings (1988:296) argue, any work that seeks typologies must be within the tradition of ideal types as exemplified in varying degrees by famous typological notions of Weber (1949), Burns and Stalker (1961), Mintzberg (1979). Each of these “...represent ideal-types, in that they are abstract and general, and do not ‘describe or directly represent concrete courses of action, but instead.....(are)...representative of objectively possible courses of action.’ (Mckinney 1966:22)” In this same passage Greenwood and Hinings (1988:296) identify that typologies are “wholistic in nature, emphasising the totality of relationships between a set of concepts; types are based on an idea of coherence between organisational elements”. Here the researchers are plain that they wish to use archetypes as ideal types, ideational constructs that they posit, against which they can measure observed organisational phenomena. In this exposition, the value of archetypes involves comparing phenomena against each other relative to an imagined ideal type. This is a traditional use of ideal type as Clegg (1989:54) described, "...... a Weberian ideal-type, (is) a conceptual measure against which all other deviations from the ideal, primitive type may be compared”.

But, in most of their writings (Greenwood and Hinings 1988:301, Hinings and Greenwood 1993, Cooper, Greenwood, Hinings and Brown 1996) the archetype theorists speak of archetypes as if they were objectively observable. Read in context one can see that this is more than a convenience, similar to referring to Weber’s ideal type of bureaucracy as if it were real. Archetype theorists posit that there are
underlying interpretive schemes in organisations. These cannot be seen nor heard unless assisted in analysis but the researchers do argue that these cognitive schemes exist (see for example Cooper, Greenwood, Hinings and Brown 1996). Those who propound archetype theory are ambiguous as to whether a partner may clearly understand the archetype with which the firm coheres and thus consider his or her interests as against the archetype. We cannot know what the underlying motivations were except in a post-fact rationalisation by the actor. That is to say that the coherence of the three forces of constraints, provinces and dependencies may be a post-hoc construct by the actors, one possibly induced by an analyst. It is not clear to what extent the archetypes are a member's phenomena. Certainly, they are an analyst's construct; doubtless they may be persuasive and members can come to see themselves in the analyst's constructs. The accounts are those of the observer; if subjects come to agree, so much the better. But they still remain the observers' accounts. Importantly, the archetype theorists argue that coherence in the elements will describe an archetype and that the archetype will be an ideal to which firms in an industry will tend.

My position is that ideal types are ideational constructs against which phenomena can be compared. If an archetype is no more, nor less, than an ideal type then it does not matter whether archetypes are observed phenomena or not; they would assume the value of ideational construct (Allaire and Firsiritio 1984). Still, if the authors say that archetypes exist, they may. There may very well be archetypes, underlying cognitive schemes, and these may be useful in analysis. Nevertheless, this thesis stems from archetype theory but specifically does not seek archetypes. It seeks comparison with ideal types. This is consistent with Greenwood and Hinings (1988) advice that archetypes can be considered as ideal types. Thus the analysis in this thesis is maintained at the level of observed phenomena that are compared to ideationally constructed types. It is accepted in this thesis that the archetype is a construct of the researcher.

The other point of departure is again related to cognitive schemes. In all their writing these researchers talk of interpretive schemes as underlying, (in some instances underpinning) coherent elements of organisation, and they write as if those interpretive schemes were objectively extant. Of course the analyst must infer that
these cognitive schemes exist. We are thus in a similar situation to the immediately previous discussion of ideal types. It really does not matter if the schemes are there or not; it is useful to posit them and, thus, it is safe to remain at a level of observed or reported phenomena. This thesis uses archetypes as ideal types. It uses interpretive schemes as ideational constructs that are imagined to underlie provinces of meaning.

Archetypes, Ideal Types and Change
Most of our discussion to this point has had to do with stability; structures that are persistent; values that prevail through time; power that strategically shapes dependencies. We can compare phenomena against the archetype and we will observe that the elements tend to cohere and that they do so temporally, in contest. So stability is part of a journey of change, as all organisation theory is, at root. Miller and Friesen (1984:1) argue that configurations exhibit not only momentum but also inertia; thus change is an anticipated condition. Accordingly, they anticipate tracks of change as organisations move from near one archetype toward another or hold near to a pre-existing archetype.

Cooper, Greenwood, Hinings and Brown (1996) have produced empirical evidence of such tracks of change. In this work they observed legal firms in Canada and described the structure, systems and interpretive schemes of these firms. They observed that one firm had moved from near an archetype of Professional Partnership, P2, toward an archetype that they describe as Managed Professional Business\(^\text{14}\), MPB, and then back toward the Professional Partnership. Another they observed remained committed to the Professional Partnership. Both were presented with similar external contexts. In this empirical work the researchers seem to use archetypes ambiguously, both as cognitive schemes which they assume exist, and as ideal types. They emphasise that change is not linear, that one's temporal view affects the change observed, that one's method affects the change observed.

\(^{14}\) In an earlier description of archetypes (Hinings, Brown, Greenwood 1990) seen in professional accountancy firms, they used a term of Managed Professional Bureaucracy perhaps in deference to Mintzberg’s (1981) notion of professional bureaucracy as one of his structures in five. This seems synonymous with Managed Professional Business. The second term does separate the notions from complex large organisations and is preferable.
The device which is used in this thesis is to name the empirical data that one observes within firms as organising modes. These are coherent instances of provinces of meaning and dependencies of power constrained by contextual circumstances. One can observe these phenomena and imagine an ideal type that is, to remain true to the language of the archetype theorists, an archetype. The organising mode can be plotted on a scale as nearing or leaving some archetype. I use the concept of organising mode rather than organisation so that I can emphasise the process of structuring. Galbraith (1973) also used the term organizing mode to emphasise the centrality of the organising process rather than the structure of organisations in the affairs of management. His work agrees with mine in the observation that these modes are not attained through fiat but lacks my emphases on reflexivity, inter-permeation and elements\textsuperscript{15}.

So the work of the archetype theorists is a theoretical basis of this thesis. The structuring notions of important elements which cohere within a reflexive system is accepted. The notion that an archetype may be used as an ideal type is accepted. The notion that archetypes are existing cognitive schemae is not used. Thus, the work collects data that describe the organising modes of firms and compares these data with ideal types, which are archetypes.

HOW ARCHETYPE THEORY IS USED IN THIS THESIS: REFLEXIVE ARCHETYPE THEORY

Structuring theory is the foundation for this thesis and is used as its originators suggested (Ranson, Hinings, Greenwood 1980). To this foundation is added the brace of circuits of power (Clegg 1989). Archetype theory provides the other major brace of the theoretical framework for this thesis yet it is not used identically to its originating authors' current usage in for example (Greenwood, Cooper, Hinings and Brown 1996). The departures are significant but do not lessen the interpretive power of the theoretical construct.

First, I link structuring (Ranson et al 1980) to archetypes (Greenwood and Hinings 1988, Hinings, Greenwood and Brown 1990; Greenwood, Cooper, Hinings, Brown

\textsuperscript{15} This did not come to my attention until the thesis was all but complete and in final edit.
The articles concerning archetypes accept that archetypes are templates that are institutionally derived. We can thus consider an archetype as a design type whose criteria match the institutionally derived criteria. These authors also argue that archetypes are real circumstances of organising, but for now I wish to concentrate on how archetypes as institutional templates may be derived. I take the position that a structuring process will produce any template in an institutional field. The interplay of contextual constraints, provinces of meaning, and dependencies of power is implicated in decisions about the raison d'être of a firm, or its domain of operations, its principles of organising and criteria of performance. It is these that cumulatively provide data from which an analyst can infer a design type. Therefore, structuring is organisationally individualistic, or at least heterogenous, rather than communitarian or homogenous.

I see the link to structuring so vitally as to name structuring an originating species of archetype theory, and I emphasise structuring in the model that I use. To emphasise these debts I name the approach I use in this thesis, reflexive archetype theory. Such an approach gives more attention to power than have archetype writings since 1988 (in which power is less explicitly attended). Additionally, reflexive archetype theory gives more emphasis to inter-permeation and reflexivity than archetype theory has to date. I examine configurations of organisations in which three elements, contextual constraints, provinces of meaning and dependencies of power inter-permeate each other, whereas archetype theory argues explicitly that interpretive schemes (qua archetypes) underpin systems and structures that are strategically determined. Both archetype theory and reflexive archetype theory insist that configurations are wholistic.

Second, I use the term organising mode to describe configurations of organisations. This term is synonymous with "patterns of organizing" (Greenwood and Hinings 1993) and is intended to convey the inter-related actions of organising. It is

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16 If the authors of structuring theory had continued their integrating project into archetype theory then archetype theory would also have emphasised reflexivity.
furthermore meant to convey a sense that actors construct a mode of rationality (Clegg 1990) as elemental in this process. It also is meant to refer to Weick’s (1969) notion that organisations are ideational constructs that describe organising processes of behaviour. I use organising modes as actual ensembles of the three elements: contextual constraints, provinces of meaning and dependencies of power.

Third, I accept Greenwood and Hinings (1993:1056) advice that organising modes will tend, through time, to coherence and that tracks of change are notable when organising modes are seeking coherence or retaining it. In this I emphasise doxic experience and the search for legitimacy and efficiency.

Fourth, the archetype theorists use archetypes as representing both ideal types and actually observed data. I use archetypes only as ideal types. I observe data and interpret data so as to describe an extant organising mode. I compare the organising mode against the ideal type.

Fifth, the archetype researchers uncover underlying interpretive schemes that are cognitive representations of archetypes. Despite their advice and notably also the assertions by Di Maggio and Powell (1991) that institutions have a cognitive basis, I do not search for this base. I observe phenomena that I describe. My ideal type is an ideational construct that includes interpretation of a possible shared interpretive scheme but my search for data concludes at the level of observable data. Given the restricted time frame through which I was able to track professional organisations, compared to the extended period over which Hinings and his colleagues have been able to do so, any attempt to seek such interpretive schemes in my cases would be questionable. Furthermore, as discussed earlier, on theoretical grounds I prefer to remain at the level of observed phenomena rather than inferred noumena. Phenomena are sufficient for the project of this thesis.

TRIBES OF ORGANISATIONAL ANALYSTS

All sciences develop their specialisations; each specialisation develops its adherents; and from this process evolves schools of thought. Even though a newcomer to the science may be surprised at the apparent agreement on many issues which are unseen or denied by the rival schools’ adherents, it can be seen that the institutionalisation of
this or that brand of knowledge is reasonable for the adherents who use similar language and methods of analysis, write and read similar journals and review each others’ work. By this process have developed several tribes of organisational analysis. In this section I will discuss several of these and locate reflexive archetype theory within them. I would not claim that these categories are tightly sealed. I do this to demonstrate that the theory has several theoretical ancestors, but, most importantly, it is an integrating theory that realistically takes from separate schools and builds together a unifying theory that is useful in studying organisations and interpreting them.

WEBERIAN ANTECEDENTS

Perrow commences his review of organisation theory with Weber’s (1947) bureaucratic model. He specifies Weberian theory as touching, “three groups of characteristics: those that relate to the structure and function of organization, those that deal with means of rewarding effort, and those that deal with protection for the individuals,” (Perrow: 1986:47). He then reminds us of Weber’s precepts for the ideal type of bureaucracy: continuous office, hierarchy, rational legal authority, division of labour, standardisation based on training and expertise, delegations of authority, rules, files of decision and most importantly the notion of ideal type fill out the first category; salaries, ranks, lack of ownership and rights to appropriate one’s office, separation of private and bureaucratic affairs, bureaucratic office as primary occupation fill out the second category; restriction of power to usage for organizational purposes, voluntarism of officials, promotion on seniority or achievement, obedience to position rather than person, official obligations, compulsion based on rules, rights of appeal fill out the third category.

Weber’s work is parent to most in organisational analysis. If we were to construct a species tree of organisational analysis we would find Weber as the metaphorical Adam at the trunk. Weber’s material (1930, 1947, 1948, 1978) is so broad, rich, complex and deeply argued that it can be seen as providing (potentially or a posteriori in some instances) underpinning for other theorists. Thus when we review notions suggested by Taylor (1912, 1947), Gilbreth and Gilbreth (1917) Fayol (1916) concerning the role of management and the means of control of production we can readily see that viewing their work in the context of Weberian notions of bureaucracy
and legitimacy adds more rigour to their world than would otherwise be the case. Without these roots much of the Classical School’s work is aphorism. Similar comments could be offered concerning later schools which spring from a deep understanding of Weber (much of the power literature which only in part shows clear reference to Weber, (for examples Clegg 1975, Clegg 1989, Giddens 1984, Lukes 1974, Walsh, Hinings, Ranson, Greenwood 1981) or whose work whilst springing from different traditions can best be understood from a Weberian base, such as the Human Relations School (Mayo 1933, 1949; Roethlisberger and Dickson 1949; Barnard 1937). Weber is parent to most specialisations in organisational analysis and, not surprisingly, there is an evident elective affinity between reflexive archetype theory and Weberian theory.

First, reflexive archetype theory is deeply concerned with the structure of the organisation under observation and in particular the interplay of power, context and values that enable and change structure. Moreover, the means of control and its contest are central to the theory and it analyses organisations against ideal types. Thus it fits Perrow’s (1986:47) first Weberian category. Second, the theory is used, particularly in this thesis, as a means of analysing knowledge-based organisations of the professional service type, specifically legal firms, in which reward is a centrally defining variable of values. Professional service firms are typically arranged as partnerships and do not exhibit all the bureaucratic features. For example, ownership and service private and official duties are intertwined. Nonetheless, they are reflexive of their society in which bureaucracy is a major influence of organisational life. Just as theorists in the initial days of organisational analysis looked to military or church models to understand actions so today analysts look to the bureaucratic model. Weber was right: bureaucracy became so pervasively ubiquitous that many management theorists have measured organisations by their closeness to its ideal type. The third category presented by Perrow is less useful, except within the broad meaning just specified. Whilst values noted within an organisation may be related to this category, reflexive archetype theory does not rely upon the category, protection of individuals within organisations, in its analysis.
CONTINGENCY ANTECEDENTS

The contingency school as exemplified by the Aston Group has well known roots in the Weberian tradition. After all, their original studies in the Midlands of England used a questionnaire designed around five major features of bureaucracy, as distilled from Weber and other sources. These were used as variables for data gathering by the group as they collected data on organisation structures and the relationships of these to other variables and constructed a taxonomy of organisations. The work of the contingency theorists has been seen by some as prescriptive (Burnes 1996 for example) and it has been alleged (again Burnes 1996 is a good example) that their work specifies one best way. Clegg (1990) has referred to these notions as the TINA tendency, that is There Is No Alternative. Thus if a firm grows in size there is no alternative but that it will become more bureaucratic would be a TINA description of this part of contingency theory.

Contingency theory is a type of open systems theory (von Bertalanffy 1950; 1956) which, in its organisational guise, is decidedly structuralist and functionalist, seemingly interested more in signifiers than action (Kast and Rosensweig 1979, Hunt 1980). Reed (1996:37-40) argues that it was an Utopian theory "which presumed to solve, through expert social engineering and flexible organisational design ... the fundamental institutional and political problems of modern industrial societies." Yet, it "reduces the vital 'interpretative work', done by individual organisational actors, to a purely cognitive process dominated by standardised rules and operating programmes. Politics, culture, morality and history are significant by their absence from this model..."

By re-discovering community and writing back in some of these missing features then one could fall to a less prescriptive, more contingent view of contingency theory. One that is truly contingent upon situational variables but recognises that actors will interpret these variables according to their understanding of context. Perrow (1986) seems to view contingency theory in this way. Clearly, Ranson, Hinings and Greenwood (1980) express contextual constraints not as situational variables that are causative of action in a TINA manner but as elements inside and outside the organisation interpreted by actors in accordance with their tacit social knowledge.

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Reflexive archetype theory relies upon this notion of contextual constraints and concerns itself with the structuring of organisations. However, whilst contingency theory can be seen as antecedent to archetype theory, the archetype researchers, one of whom had been a leading member of the Aston Group, have criticised contingency for its mechanistic assumptions and failure to view organising wholistically. When explaining that archetypes describe wholistic configurations Greenwood and Hinings (1988:296) state,

This marks a break from the dominant contingency work of the past 20 years, which has been concerned with abstracting limited numbers of structural arrangements - for example, the level of centralisation, or standardisation - and exploration of their association with situational factors such as size. This approach essentially misses the importance of the whole patterning of elements and the prevailing orientation.

CULTURE ANTECEDENTS

The archetype theorists have been at pains to dissociate their writing from organisational culture. They express this (Greenwood and Hinings 1990) as a conscious strategy not to be seen as part of the 1980s culture movement (led mainly by Peters and Waterman 1982) which lauded strong homogenous culture and specified prescriptive rules which should be followed so that culture could be managed. Indeed, authors like Peters and Waterman (1982) and Deal and Kennedy (1982), write of culture as an outcome of a formulaic prescription in which those in power manage, (much more than influence), variables to achieve an expected culture, which ideally they would see as strong, homogenous, within command, unitary, integrated. Ranson, Hinings and Greenwood (1980), quite the contrary, view culture as the outcome of several inter-dependent elements and acknowledge that strategic decisions, typically taken by managers or principals, will deeply influence culture though it is not manageable. They use the phrase, provinces of meaning, as synonymous with this notion of culture.

The notion that culture is manageable and can be prescribed has receded as scholars have analysed this simplistic notion (Hofstede 1986, Frost et al 1985). At the same time, there has been a growth in the notion that current conditions, particularly the professionalisation of the workforce and globalisation, demand more attention to
culture as a means of ensuring relatively consistent action towards organisational goals (Limerick and Cunnington 1993; Clegg 1990; Frost et al 1985). This is more or less what Cooper (1990) calls 'control at a distance'. This thesis examines a tightly institutionalised legal profession and relies upon culture, or provinces of meaning, as a means of quality assurance in work and behaviour.

Whilst Ranson, Hinings, Greenwood (1980) saw culture, qua province of meaning, as an element of structuring, Greenwood and Hinings (1993: 1056-1057) were at pains to dissociate themselves from notions of cultural homogeneity that had been made fashionable by Peters and Waterman (1982) and Deal and Kennedy 1982).

Critically, the position developed here departs from earlier work on culture, a term we do not use, which also embraces values, beliefs and organisational practices. For our purposes, it is essential to distinguish between values and beliefs- the interpretive schemes- embodied in an organization's structure and systems and the extent to which some or all organizational actors are, at a given time, committed to those ideas and values.

Their notion was that members of an organisation, even a clear majority, may not prefer the pre-existing interpretive scheme. Therefore they align themselves with those cultural theorists whose work has been described by Dunford (1992) as accepting the fundamentally pluralist and differentiated nature of culture in organisation. It is in this sense that reflexive archetype theory is related to culture. Culture in the more critical sense discussed here rather than the prescriptive sense that Hinings et al were reacting against when they first wrote of structuring. Indeed reflexive archetype theory is strengthened by regular reminder that cultures are not homogenous for this emphasises the notion that it is concerned with change not stasis.

**POWER ANTECEDENTS**
Power has three saliences: agency, disposition, and facilitation. The first of these is the 'normal view' of power that is exercised by social scientists. It stems from resources that actors have environmentally available that they apply in episodes of conflict. It is represented by writers such as Parsons (1967), Dahl (1957), Bachrach and Baratz (1962), Newton (1969), Pfeffer (1981) and Child (1972). There are
considerable variations in this list with respect to elements such as structure, elitism or pluralism, resource dependencies, and contingencies but each consistently looks upon power as agency in which episodes occur in power relations and power is causal. A more radical view of power would be to see it as dispositional in which rules of practice are formed by some dominant ideology (Lukes 1974) or through a duality of structure and agency (Giddens 1984; Ranson, Hinings and Greenwood 1980). A third view of power is that it is facilitative and establishes systems of domination through discursive practices (Foucault 1977; Laclau and Mouffe 1985).

These saliences can be viewed as an ensemble and translated into a circuits of power model (Clegg 1989) as I have argued above. The work of structuring theory (Ranson, Hinings and Greenwood 1980) and archetype theory has referred to agency and dispositional power (Greenwood and Hinings 1988, Cooper, Hinings, Brown, Cooper and Greenwood, Brown, Hinings 1996; Greenwood and Hinings 1993). These are usefully extended by application of the circuits model, which I incorporate into reflexive archetype theory.

INSTITUTIONALIST ANTECEDENTS

This is where Greenwood and Hinings (1996) now claim archetype theory should be placed. Institutionalism is a broad body of theory that can be summarised as concerning itself with the concept that organisations become “infused with value” (Selznick 1957:17), why and how this persists and is copied. It can be seen as potentially divided between either, concentrating upon the process by which value is infused and organisational practices become institutionalised or, concentrating upon the copying of those processes.

Early writers (Selznick 1957; Perrow 1986; Berger and Luckman 1967) attended to the process by which “....stable, socially integrating patterns (emerged) from unstable, loosely organized, ......... activities”. We might term this, institutional creation (Srinivas 1997:3). Subsequently, writers have shifted focus to the question as now put by Tolbert and Zucker (1996:1), “institutional theory is driven by the problematic of why different organizations, operating in different environments, are often so similar in structure”. Most influential in this shift have been Di Maggio and Powell (1983) who argue that similarity of form occurs within a setting that is
typically industry based. Di Maggio and Powell (1983) name this copying process, isomorphism and trace its institutional transmission as emanating from coercion, norms or mimesis.

Thus the field has been divided into the old institutionalism which attends to institution creation and the new institutionalism which attends to institution transmission. The new institutionalism has been prolific and influential (Tolbert 1988; and Zucker 1983; Oliver 1991; are exemplars) but not without its critics. Selznick (1996) abhors the dis-integration of institutionalism and counsels that analysts ought to attend to both creation and transmission. Srinivas (1997:4-5) argues that the old institutionalism has been deprecated. Moreover that its precepts are too important to ignore.

Importantly, archetype theory provides a bridge between old and new institutionalism (Greenwood and Hinings 1996). Its notion that actors within or related to an organisation adopt routines that are taken for granted and institutionalised, fits into the old institutionalism; particularly as archetype theory is a theory of change. The reflexive version of the theory complexly relates several elements (which we have rehearsed previously) to explain coherence of a configuration that will tend to persist through time but can be altered through contest. It posits that there will be tracks of change as organisations move from near one archetype to another; further that these peripitations will be dynamic and non-linear. Seen thus, it will assist in interpreting data of institution creation. However reflexive archetype theory also produces ideal types that can be used in constructing typologies. Potentially, one can compare the closeness of fit of varying organisations to defined ideal types and track these longitudinally.

The archetype theorists concentrate their empirical work in industry fields, specifically, thus far, in professional fields that are tightly institutionalised, such as law and accountancy. They have produced interpretations of an emergent and a pre-existing archetype in both of these fields. They have applied these archetypes to legal firms and noted clustering and tracks of change. Thus, it can be seen, archetype theory is useful in analysing institution transmission.
Srinivas (1997) argues that institutionalism (old and new) concerns itself with efficiency, legitimacy and doxic experience and reminds us that these three concerns may not be seen as coherent. This last category, doxic experience, deserves immediate explanation. It stems from Bourdieu’s (1990:20) notion of “people taking themselves and their social world for granted” (Srinivas 1997:8). Routines become unconscious and infused with value. Ceremonies and other cultural artefacts confirm these routines and assist their creation and transmission. In effect doxic experience creates what Clegg (1989, 1990) refers to as a mode of rationality. Yet it is a rationality that is value-rational (Weber 1948) and which has been inter-permeated by power and the context of the organisation. Neo-institutionalists concentrate upon the transmission qualities of this experience whereas reflexive archetype theory can be used in understanding its creation also. This is an example of reflexive archetype theory’s bridging quality; in this instance between the old and the new institutionalism.

Neo-institutionalists argue that doxic experience will have an underlying cognitive base (Di Maggio and Powell 1983). Actors will learn routines and limit their decision making to these routines. The archetype theorists refer to these routines as professional templates. Lawyers ‘know’ professional behaviour and construct interpretive schemes that enable them to know, name and design their world. Here the archetypist theorists closely align with neo-institutionalists in their insistence that interpretive schemes underly coherent organising modes. They align with institutionalists who look to the doxic experience as a means of institutional transmission and creation. This is not to say that doxic experience may produce institutions that are rational in an economic sense, rather that values rationality will be very significant.

Of course the notion that organising modes become institutionalised because they are efficient is a famous starting point for organisation theory. It was Weber (1948) who argued that bureaucracy was technically the most rational means to organise and that organising modes which approached the ideal type of bureaucracy would become ubiquitous and dominant. Thompson (1967) was to argue that organisations exist within environments and that their managers arranged affairs so as to reduce uncertainty. Child (1972) took up this notion of strategic decision making as a means
of ensuring fit between an organisation and its environment that would be efficient. Other contingency theorists attended to variables that might be seen as inefficiently linked and therefore required adjustment by strategic executive action. Current contingency theorists (Burnes 1996) progress the notion of strategic change beyond the constraints of environmental fit and argue that strategists can and do act so as to change their environment. There is a sense of this, without the determinism of early contingency theory, in archetype theory. Hinings and Greenwood (1993) argue that organising practices\(^{17}\) will tend to coherence because the interplay of elements will give competitive advantage to the configuration that is efficient and legitimate. The archetype theorists also argue that these elements may cause persistence with organising modes that are seen from an economically rational viewpoint as inefficient. For example, in the cases of legal firms that they trace, (Cooper, Greenwood, Hinings and Brown 1996) one of the firms consciously decided to return to an organising mode that more comfortably fitted the doxic experience of its dominant coalition of partners and a pre-existing province of meaning rather than a mode that was seen as market efficient. This presents an interesting argument with unresolved tensions. On the one hand, the market will compel efficiency of organising mode. On the other hand normative, coercive or mimetic practices may predispose an inefficient organising mode to persist. Reflexive archetype research allows for the possibility of detailing and theorising such cases, which could be considered anomalies, but could equally be considered as representative of the contradictory and ambivalent dynamics that are present in the organising process.

Legitimacy must rank equally with efficiency as a concern of organisational analysts. Weber's (1948) concept of bases of legitimacy is worth briefly re-visiting. His argument may be summarised as the following. One can observe distinct forms of rationality. There is instrumental rationality as exemplified by the market or an actor within a market pursuing his or her interest. There is value rationality (\textit{wertrational}) as exemplified by actors complying with some norm, such as a religious practice or folkloric tradition. There is legal rationality as exemplified by the coercive power of the State in its legal embodiment. Upon these bases a chief establishes followership due to one of charismatic, traditional or legal status, and organisation is established

\(^{17}\) A term that they use rarely, but when they do, equivalently to what I term organising mode.
which corresponds with status. Thus, legal status produces bureaucracy-like organising modes of hierarchy and rule, whereas charismatic status produces disciple-like organising modes of centrisms and revelation, and traditional status produces organising modes that are idiosyncratic to the tradition and which gain legitimacy due to the doxic experience of tradition.

To focus more closely now on institutionalism, Srinivas (1997:7) reminds us that:

Institutions are sets of norms, values and expectations: or structures infused with value (Scott 1995). They are consensually accepted norms or expectations prevalent in that setting, shaping the action of organizational members. Alternately, (sic) institutions are organization structures that have become associated with the values of the surrounding society, taking on a permanent and sanctified status (Di Maggio and Powell 1991; Selznick 1996).

Thus the issue of legitimation has two components: organising practices or organising modes must be coherent with the values in use by organisational actors and they must be consistent with the values of the surrounding society. Reflexive archetype theory handles this issue of legitimation within the rubric of institutionalism but it does so with a complexity and integration that is worth re-stating. Its view is that organising modes exist within society and are inter-permeated by society. The elements that compose an organising mode when they cohere are contextual constraints, provinces of meaning and dependencies of power.

So, in summary, we see that reflexive archetype theory is an institutionalist theory. It has grown from theoretical forebears and in that growth has dissociated itself from some of its ancestors’ precepts. Its roots can be traced to Weberian notions of action, legitimacy, and rationality. It provides a theory which is adequate at the level of meaning and causality (Weber 1978). At the level of meaning it provides interpretive accounts for the sense that actors make of their worlds and is particularly apt for examining institution creation or change. At the level of causality it abstracts from daily experience of actors and describes ideal types that may typologise populations of organisations and chart these through time. In this guise it is particularly apt for examining institution transmission.
The analysis in this chapter has intertwined, where appropriate, archetype theory (Greenwood and Hinings 1988) with my theoretical construct, reflexive archetype theory. In instances in which one version is implicated more than the other I have differentiated the two. Reflexive archetype theory is an integrationist theory that looks to bridges rather than barriers between the tribes. Its antecedents are all those I have identified above but most specially its antecedents are structuring, circuits of power and archetype theory.

Reflexive archetype theory rests upon three elements that inter-permeate each other. The element of contextual constraints has some debt to social theorists such as Giddens and Bourdieu and recognises that organisations are both constitutive and constituent of society. The externality of the organisation must be congruent, will shape and be shaped by the environment that surrounds the organisation. The internality of the organisation refers, in the element of contextual constraints, to size, technology, hierarchy, and rules. This feature of contextual constraints is clearly related to contingency theory but one must make a feature of inter-permeation (structuration after Giddens 1980) and deny the mechanistic determinism for which many have criticised the contingency school. The other two elements provide theoretical connections also. Provinces of meaning must be seen as related to arguments from sophisticated proponents of culture such as, Frost et al (1985), Trice and Beyer (1984), Perrow (1986) and can be quarantined from the formulaic prescriptions of authors such as Peters and Waterman (1982) and Deal and Kennedy (1982). Dependencies of power must be seen as connected to authors on power. One can first note a debt to Weber (1947, 1978) but assiduously add the dimensions of Lukes (1974) and extend it by the modes of rationality and doxic notions of frameworks of power of Clegg (1975, 1989, 1990).

CONTRIBUTIONS TO ORGANISATIONAL ANALYSIS

Reflexive archetype theory makes significant contributions that can be discussed under three rubrics: integration, typology and research agenda.

Integration

Reflexive archetype theory emanates from structuring and is fundamentally integrative. Its parent, structuring, was first claimed as integrating those tribes of
organisational analysts that concentrated upon structure with those that concentrated upon interactions. Both were criticised for their narrow focus. Structuralists at their worse could be seen as prescriptive, disintegrationist, superficial, mechanistic. Interactionists, at their worse could be seen as phenomenologically descriptive, narrowly specially focused, superficial and inconsequential. While, these charges may be harsh neither group paid sufficient attention to each other, except as opponents. Reflexive archetype theory provides opportunity to integrate several types of organisational analysis (contingency, culture, and power) within these groups.

This is not to say that archetype theory\(^{18}\), is well conceived in all areas. Its contingency parent lends it features that tend strongly to structuralism and its visage seems strongest in its expression of structure, systems and interpretive scheme and weakest in its explanation of power. The archetype model as a gestalt works but it seems to rely upon a resource dependency interpretation of power. Accordingly it can be usefully extended by Clegg’s (1989) notion of circuits of power. Admittedly, and notably, structuring theory (Ranson, Hinings and Greenwood 1980) addressed the notions of strategic decisions, interests and coalitions. Importantly they wrote of provinces of meaning as containing elements of mode of rationality (Clegg 1989, 1990) and therefore suffused with silent power of disciplinary practices (Foucault 1977). Nonetheless archetype theory in its empirical work says little of power except that which is episodic and resource dependent (Greenwood, Hinings, Brown 1990; Cooper, Greenwood, Hinings, Brown 1996) even though two of the authors of structuring theory are most influential within this group. It is for these reasons that reflexive archetype theory pays especial attention to these features, to paint back in the reflexivity that fieldwork has burnished away.

**Typology**

The archetype theorists argued that organisational analysis must return to typologising (Greenwood and Hinings 1988 ) which signalled a clear break from the Aston School and contingency theorists' insistence upon taxonomies. Here was a bridge presented as potentially joining structuralists with interactionists. However, in

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\(^{18}\) From which, reflexive archetype theory stems.
their later operationalisation of their theory this vital aspect of integration was lost. The archetype researchers have painstakingly, and over a long period, constructed typologies that describe design type. However, whereas reflexive archetype theory measures actual organising modes against these types Greenwood, Hinings and colleagues use archetypes as both ideal types and phenomena. Both versions of archetype theory are very powerful. They permit analysts to track changes in populations longitudinally and to interpret variations in fields.

**Research Agenda**

The archetype theorists present a very clear research agenda. I have indicated that archetype theory could be used as a theoretical construct for interpreting institution creation and/or institution transmission. This is a decided strength and one to which its typologising factor contributes. Nonetheless, whilst it retains this capacity for interpretation of institution creation its empirical usage has been related to institution transmission. Accordingly, Greenwood and Hinings (1988:309) specify the following research agenda:

1. “What are the archetypes utilized by organizations?
2. What tracks do organizations follow through time, how stable are they and what are their frequencies?
3. Why do organizations follow certain tracks?”

Clearly these questions, when expressed, consciously link archetype theory to institutionalism, especially when on the same page they cite Di Maggio and Powell (1983:150-151) to the effect that:

Organizations are increasingly homogeneous within given domains and increasingly organized around rituals of conformity to wider

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19 As I have already mentioned they use the term ambiguously; at once meaning ideal type and actual organisation. I avoid this usage. I use archetype only as ideal type. I argue that when one interprets contextual constraints, provinces of meaning and dependencies of power then one describes an organising mode. One can measure an organising mode, which is actual against an archetype which is ideational.
institutions... Under such circumstances organizations employ ritualized controls of credentials and group solidarity.

But they continue with specific warnings that,

It is difficult to escape the conclusion that a theory of organizational tracks, based upon archetypes delineated by underlying sets of meanings, will have to be sensitive to institutional contexts and differences. Similarities in structural elements across institutional boundaries may conceal significant differences in design archetypes (Greenwood and Hinings 1988:309).

Thus, at the very point of introducing their theory as one that could usefully analyse transmission of institutions, it was also seen as a theory that could analyse institution creation. Reflexive archetype theory can be used in exactly these ways. As I explain in the next chapter it is employed in this thesis so that one can discover why law firms organise as they do. Accordingly, in this thesis it is limited to interpretation of institution creation but it can also be used to analyse institutional transmission.

META-NARRATIVES IN ORGANISATIONAL ANALYSIS

Michael Reed, (Reed 1996) specified a series of meta-narratives in organisational analysis that have shaped the history of the discipline and identified three debates that are central its theorising. This section will identify the contributions that this thesis seeks to make to organisational analysis by placing it within his schema of meta-narratives and detailing how it contributes to the fundamental debates.

Theorising is a reflexive activity in which "conceptual innovations... struggle to attain a degree of support by "mobilizing ideational, material and institutional resources to legitimate certain knowledge claims" (Reed 1996:33). We make theory in a historically contested terrain. "At any point in time, organisation studies is constituted through shared lines of debate and dialogue which establish intellectual constraints and opportunities within which new contributions are assessed" (Reed 1996:33). The terrain is shaped by meta-narratives that can be traced historically as in the table below.
<table>
<thead>
<tr>
<th>Meta-narrative Interpretative Framework</th>
<th>Major Problematic</th>
<th>Illustrative/exemplary/perspectives</th>
<th>Contextual Transitions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rationality</td>
<td>Order</td>
<td>Classical OT, scientific management, decision theory, Taylor, Fayol, Simon</td>
<td>From nightwatchman state To industrial state</td>
</tr>
<tr>
<td>Integration</td>
<td>Consensus</td>
<td>Human relations, neo-HR, functionalism, contingency/systems theory, corporate culture, Durkheim, Barnard, Mayo, Parsons</td>
<td>From entrepreneurial Capitalism To welfare capitalism</td>
</tr>
<tr>
<td>Market</td>
<td>Liberty</td>
<td>Theory of firm, institutional economics, transaction costs, agency theory, resource dependency, population ecology, liberal OT</td>
<td>From managerial capitalism To neo-liberal capitalism</td>
</tr>
<tr>
<td>Power</td>
<td>Domination</td>
<td>Neo-radical Weberians, critical/structural Marxism, labour process, institutional theory, Weber, Marx</td>
<td>From liberal collectivism To bargained corporatism</td>
</tr>
<tr>
<td>Knowledge</td>
<td>Control</td>
<td>Ethnomethod, organisational culture/symbol, poststructuralist, post-industrial, post-Fordist/modern, Foucault, Garfinkel, actor-network theory</td>
<td>From industrialism/modernity To post-industrialism/Postmodernity</td>
</tr>
<tr>
<td>Justice</td>
<td>Participation</td>
<td>Business ethics, morality and OB, industrial democracy, participation theory, critical theory, Habermas</td>
<td>From repressive To participatory democracy</td>
</tr>
</tbody>
</table>

(Reed 1996:34)

These six meta-narratives can be divided into two groups. The first three emphasise structuralism/functionalism, positivism, and a macro-perspective of organisational phenomena. The last three emphasise agency, constructivism, and a micro-perspective of organisational phenomena. This divide has adopted "...radically opposed epistemologies (that) legitimate very different procedures and protocols for assessing the 'knowledge claims' which organisation researchers make" (Reed 1996:46). This challenges a researcher who introduces new theory to locate it within the meta-narratives and to detail his claims for this placement.

Reflexive archetype theory fits within the second grouping of meta-narratives, power, knowledge, justice. It has allegiance to each of these and straddles two of the
three divides that are specified. First, it straddles the structure/agency divide by an approach that accepts duality and extends it by use of a 'circuits of power' model. It is not clear at all, historically, that all power theorists emphasise agency over structure though most may have done so. It is to this majority that Reed refers when he constructs his table though he recognises that there are "... theorizations of power that draw their inspiration from Machiavelli's interest in the micro-politics of organisational power and its contemporary expression in the work of Foucault ..." (Reed 1996:40). He recognises that such theory addresses the agency/structure duality in a sophisticated way but criticises it as overly emphasising 'interactional processes or micro-politics' and losing sight of 'broadly based organisational mechanisms which become accepted as legitimate structures and rhetoric'. Here is a second divide that reflexive archetype theory straddles, the macro/micro divide. Use of the ensemble of reflexive archetype theory permits the analyst to investigate the provinces of meaning within the organisation as well as the contextual constraints that mediate these provinces. Use of the circuits of power model permits the analyst to explore the social and system integration patterns that institutionalise and habituate micro-routines that, through recursiveness, form macro-routines. Hence, reflexive archetype theory integrates micro-evidence with macro-evidence in its theorising.

FUNDAMENTAL DEBATES

Organisational analysis is presently undergoing a period of 'radical science', wherein contests occur as to what should become the dominant paradigm; as opposed to 'normal science', wherein increments of knowledge are added to an accepted paradigm (Kuhn 1962; Lakatos and Musgrave 1970; Gouldner 1971). Law (1994:248) refers to this process with the delightful pun, 'bonfire of the certainties' and suggests that there are two possible responses: return to a previous orthodoxy (Donaldson 1985; 1988; 1994; Pfeffer 1993) or continue the paradigm proliferation. Reed (1996:50) posits that though it may be argued that the two camps are incommensurable and irreconcilable this cannot be an acceptable position. There must be a third way between the 'bonfire of the certainties' and the 'search of lost time'. This thesis accepts that challenge and by its framework of reflexive archetype theory, a theory of integration, permits such reconciliation. It proceeds, "from a sensitive appreciation of the complex interaction between a changing set of
in institutional conditions and intellectual forms as they combine to reproduce ... reflexivity and criticality". (Reed 1996:51).

I can support these claims by demonstrating that reflexive archetype theory addresses three fundamental debates within organisational analysis. The debates are summarised by Reed (1996:51).

Three debates seem particularly intense and potentially productive at the present time. The first is the perceived need to develop a 'theory of the subject' which does not degenerate into the simplicities of reductionism or the absurdities of determinism. The second is a general desire to construct a 'theory of organisations', that analytically and methodologically mediates between the restrictions of localism and the blandishments of globalism. The third is the imperative of nurturing a 'theory of (intellectual) development' that resists the constrictions of conservatism and the distortions of relativism.

Earlier in this chapter I outlined the notion of inter-permeability of the elements in reflexive archetypes. I argued that these were constituent and constitutive of each other and that chiefly through practical recursiveness they would form a tacit social knowledge. I extended this basically Giddensesion concept by reference to Clegg's (1989) circuits of power model with its necessary nodal points and its notions of social integration and systems integration. This introduces a 'duality' of structure and agency, and contributes to the 'theory of the subject'. It is neither reductionist, for it is a complex inter-related theory, nor determinist, for it accepts the agency of individuals and other agents operating and causing structures in which power is unequal.

Reflexive archetype theory contributes to the theory of organisations' globalism/localism debate by providing a framework that demands the analyst attend to the micro-phenomena within organisations as well as the macro-phenomena in which organisations are constituent and constitutive. Phenomena within organisations may be causative of social innovation but that social innovation will remain local unless there are forces that transmit innovation within an institutional field, or globalise it. My use of organising mode permits analysis of both the institutional creation of the innovation, within the micro-politics of the organisation, and its transmittal, within the macro-politics of the institutional field. It does this by
attention to the creation of the inter-permeated elements that comprise an organising mode and comparing this to an ideational archetype. Afterwards, it is capable of tracking the innovation within a system integration circuit of power. For example, if an organising mode is adopted within legal firms that are socially innovative the theoretical framework that has been constructed in this chapter can interpret it. It can also trace it as other firms and the profession adopts it.

The third debate seeks theorising which is neither conservative nor relativist. The theory in this chapter is realist. The concept of organising mode is not used to construct positivist taxonomies, but to posit ideal types and compare data to them. It does so within a complex framework that requires the analyst to describe phenomena as they are observed and reported by actors who cause the organising modes. These are analysed within the historical context of the industry and the organisation. As reflexive archetype theory seeks to understand how influential agency causes organising it concentrates upon elites and describes their rationalities as fully as possible.

It is difficult when one proposes a theory that draws together differing threads of organisational analysis. As I have already indicated there are accepted ways of knowing that have been habituated in these groupings. The theory in this thesis proceeds from archetype theory, but links overtly with structuring, which at its outset was intended as a theory of integration. The proponents of archetype theory are well established and respected members of the academy. This chapter has set out my debt to them but has also made plain the parts in which my theorising differs from their theorising. My theory addresses change in professional firms, how organising modes become institutionalised and transmitted within industry, by emphasising reflexivity, inter-permeation and the importance of power in establishing organising modes, which may be transmitted into the institutional field. Clegg's (1989) concepts of circuits of power extend this version of archetype theory. These together with my concept of organising modes assemble reflexive archetype theory.

A THEORY OF MANAGEMENT IN PROFESSIONAL ORGANISATIONS
This chapter has set out a new integrating theory of organisations. Most organisational theory relates to large complex industrial organisations, yet it has been
my major task in this chapter to propose a theory that is specifically useful in the field of professional organisations. The importance of the service economy has been remarked, as have been the attempts to professionalise management controls within organisations broadly. These combine to provide a special piquancy to the study of professional firms. On one hand, they are becoming increasingly influential as economies move into service sector dominance, in which professional firms are specially implicated. On the other hand, the techniques of control of professionals, through social integration, professional templates of behaviour and system integration are recommended by analysts (Karpin 1995) for organisations broadly. Therefore, it is argued that a theory of professional organisations that can analyse institutional creation and transmittal is needed. This will contribute to better understanding of these phenomena and, where appropriate, transfer that understanding into other fields.

Reflexive archetype theory provides a powerful basis for this project. As set out in this chapter, it is robust, complex and reflexive. It attends to the inter-permeation of power, values and context and lends itself to the establishment of ideal types against which phenomena may be analysed. It has been constructed upon the footings of structuring theory and is braced by circuits of power and archetype theory into a theoretical framework that I term reflexive archetype theory. The similarities and departures of this theory to its constructive elements have been noted.

The thesis examines the organisational field of law, specifically the legal industry in NSW, a tightly institutionalised field that is undergoing significant change. In applying reflexive archetype theory in this field the thesis contributes to a small but increasing literature that attends to management in professional organisations.
CHAPTER THREE:

THE RESEARCH METHOD OF THIS THESIS

I think I will do nothing for a long time but listen,
And accrue what I hear into myself...and let sounds
contribute toward me. (Whitman 1995)

INTRODUCTION

In the first chapter I explained the circumstances in New South Wales law firms that make their study appropriate for a doctoral thesis. In the second chapter I introduced the theory that I use in this investigation. In this chapter I state the research question that I address and the method that I employ.

I commence by setting out a series of propositions or sub-questions that, together, accumulate into the research question. I then explain how reflexive archetype theory informs the question and guides the method. After this, I detail the methods employed in the data collection.

THE RESEARCH QUESTION

This thesis analyses the organising modes that legal firms in NSW adopt. To do this, it uses what I term reflexive archetype theory, an approach constructed from structuring theory, archetype theory and circuits of power theory. Each of these parts contributes propositions or sub-questions to the research question of this thesis.

Structuring theory (Ranson, Hinings and Greenwood 1980), which is the first of these parts, is an application of Giddenesque ideas of structuration as a theory of how the process of organising forms organisations. Its authors suggest that change is constant and organising is a continuously adaptive process. Therefore, when one looks at why firms are organised in this or that way, one is considering how they are adapting. Ranson, et al. (1980: 12,13) argue that structuring, the adoption of organising modes, will occur under "five important possibilities". The first of these is
change in provinces of meaning. The second is "inconsistencies and contradictions between the purposive values and interests that lie behind the strategic implementing and warranting of structural features". The third is organisational revolution, which they exemplify as "Significant changes in resource availability and other key sources of organizational uncertainty". The fourth proposition is "a major change in situational exigencies such as size, technology, and environment." The fifth is "contradictory imperatives of situational constraints," which they exemplify by a large organisation that is constrained by size to become more bureaucratic but by its turbulent environment to become more organicist. I consider each of these five propositions as sub-questions to the main research question. In Chapters Four and Five I lay out the data for each stratum and I analyse these comparatively against the five propositions. I return to these sub-questions in the final chapter.

Structuring theory (Ranson et al. 1980) requires an analyst to consider each of contextual constraints, provinces of meaning, and dependencies of power when examining the internal dynamics of a firm. I therefore use these elements to set out the organising modes in use by the firms I study. However, mere description of the elements will not effectively set out organising modes. These are formed reflexively, so it is necessary to describe how the elements inter-permeate and whether this inter-permeation forms an organising mode that is coherent or not.

Two of the authors of structuring theory were later to turn their attention to institutional templates within institutional fields. Greenwood and Hinings (1988:295-298) addressed the issue of coherence in a complex argument that established design archetypes. As these authors see design archetypes as synonymous with actual organisations any comments that they make concerning coherence of design types must also apply to organising modes. In addition to re-visiting structuring theory to argue that coherence "comes from the relationship between interpretive scheme, structure and processes" they explain that three vectors are critical to organising.

... interpretive schemes contain beliefs and values about three principal and constraining vectors of activity: (1) the appropriate domain of operations i.e. the broad nature of an organization's raison d'etre; (2) beliefs and values about appropriate principles of organizing; and (3)
appropriate criteria that should be used for evaluating organizational performance.

For these authors then, coherence in an organisation occurs when its internal elements are consistent with the institutional template and each other. The position I adopt in this thesis varies from, but uses aspects of, the same argument.

I emphasise the reflexive nature of organising. Institutional mores are part of the contextual constraints of an organisation. Thus, when the mix of contextual constraints, provinces of meaning and dependencies of power form an organising mode, actors are practically or discursively conscious of these institutional mores, coercions or models. It is sufficient therefore to note how the elements inter-permeate to uncover whether a firm is coherently organised or not. It will be coherently organised if its elements cohere around its domain, principles and criteria. I analyse coherence of organising modes in two places in the thesis. In Chapter Six where I have extensive data on three cases, the deep cases, I directly attend to principles, domains and criteria. In Chapters Four and Five I compare the firms’ organising modes with the elements of archetypes set out by Cooper, Greenwood and Hinings and Brown (1996). Structuring theory permits me to define organising modes and interpret their coherency in the firms under study.

Archetype theory (Greenwood and Hinings 1988), is the name that has been attached to the notion of institutional templates, particularly as they apply to professional fields. This, the second part of my theoretical framework, suggests that a research agenda for the study of professional firms should include, "What are the archetypes utilized by organizations?". I address this question by constructing ideal types, and comparing organising modes to these. However, because of the manner in which theory is used in this thesis I cannot discover what archetypes, (which are noumena), are utilised. However, I can identify organising modes, (which are phenomena), and compare these to the ideal types, archetypes. Organising mode, as I use it in reflexive archetype theory, is also appropriate conceptually to capture the dynamics of change in professional organisations. I comment in Chapters Four and Five on organising modes and how these relate to ideal types, qua archetypes. I present as data my interpretations of how each firm's organising mode tends towards one or
another ideal type, how firms compare within strata, and then in Chapter Six, how all firms compare. In all instances I investigate organising modes by comparing each firm against the criteria for archetypes specified by Cooper, Hinings, Greenwood and Brown (1996).

Archetype theory (Greenwood and Hinings 1988:298) describes institutional templates that are found in industry fields. These authors refer to these templates as archetypes and they claim that archetypes are both ideal types and actual phenomena. I take the position that the actual phenomena, organising modes, can be compared to ideal types constructed by the researcher. These ideal types are synonymous to archetypes as described by Greenwood and Hinings, (1988, 1993) except that they are noumena, not phenomena (Kant 1966, 1963). In later work Cooper, Greenwood, Hinings and Brown (1996) set down the design types, which for them are phenomenal as well as noumenal, that they used in studying law firms. They named these Professional Partnership (P2) and Managed Professional Business (MPB)
<table>
<thead>
<tr>
<th>Interpretive Scheme</th>
<th>Elements of the Professional Partnership Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>Governance</td>
<td>Fusion of ownership and control</td>
</tr>
<tr>
<td></td>
<td>A form of representative democracy</td>
</tr>
<tr>
<td></td>
<td>Revolving managerial tasks among the owners</td>
</tr>
<tr>
<td></td>
<td>Local office as the centre of commitment</td>
</tr>
<tr>
<td>Primary task</td>
<td>Professional knowledge</td>
</tr>
<tr>
<td></td>
<td>Peer control</td>
</tr>
<tr>
<td></td>
<td>Work responsibility as indivisible</td>
</tr>
<tr>
<td></td>
<td>Strong links with clients</td>
</tr>
<tr>
<td></td>
<td>Widely distributed authority</td>
</tr>
<tr>
<td></td>
<td>Minimum hierarchy</td>
</tr>
<tr>
<td>Systems</td>
<td>Rationality: low analytical emphasis</td>
</tr>
<tr>
<td>Strategic control</td>
<td>Interaction: consensus decision-making</td>
</tr>
<tr>
<td>Marketing-Financial control</td>
<td>Specificity of targets: precise financial targets</td>
</tr>
<tr>
<td></td>
<td>Tolerance of accountability: high tolerance</td>
</tr>
<tr>
<td></td>
<td>Time orientation: short term</td>
</tr>
<tr>
<td>Operating control</td>
<td>Range of involvement: low range</td>
</tr>
<tr>
<td>Structure</td>
<td>Primary focus of involvement: professional standards and quality of service</td>
</tr>
<tr>
<td>Differentiation</td>
<td>Decentralisation-centralisation: decentralised</td>
</tr>
<tr>
<td></td>
<td>Level of specialisation; low</td>
</tr>
<tr>
<td></td>
<td>Criteria of specialisation; professional divisions and personal interest</td>
</tr>
<tr>
<td>Integration</td>
<td>Use of integrative devices: low</td>
</tr>
<tr>
<td></td>
<td>Use of rules and procedures; generally low</td>
</tr>
</tbody>
</table>
Table 3.2 Elements of the Managerial Professional Business

<table>
<thead>
<tr>
<th>Interpretive Scheme</th>
<th>Systems</th>
<th>Structure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Effectiveness</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Management</td>
<td>Systems</td>
<td>Structure</td>
</tr>
<tr>
<td>Client service</td>
<td>Strategic control</td>
<td>Differentiation</td>
</tr>
<tr>
<td>Competition</td>
<td>Specificity of targets: precise financial and market targets</td>
<td>Level of specialisation: medium</td>
</tr>
<tr>
<td>Marketing and growth strategies</td>
<td>Tolerance of accountability: low</td>
<td>Criteria of specialisation: professional divisions and functional differences</td>
</tr>
<tr>
<td>Rationalisation</td>
<td>Interaction: more directive decision making</td>
<td>Integration</td>
</tr>
<tr>
<td>Productivity</td>
<td>Time orientation: short term and long term</td>
<td>Use of integrative devices: medium, development of hierarchy and cross-functional teams</td>
</tr>
</tbody>
</table>

The criteria that they use to compose the types emanate from over two decades of research into professional fields. I therefore decided to commence with these criteria as the elements of the ideal types I would use in this research. My intention was to change the construct if I found aspects of it unsuitable as the data unfolded. After all, the archetype theorists had constructed these types from Canadian experience that, in all probability, would be institutionally mirrored in NSW. Moreover, whilst they published the criteria in a piece that was specifically about law firms, it is plain that
their considerable experience of other professions, notably accounting, informed their analysis (Hinings 1998 personal communication).

So my work commenced with an ideal type constructed by Cooper, Greenwood, Hinings and Brown (1996) that related to Canadian professional settings. In the process of gathering, presenting and analysing the data for this thesis I found their criteria appropriate for NSW analysis. Theoretically, it would not matter if the criteria of an ideal type revealed nothing but variations from the type, but I was pleased when it fitted the data well. Part of the project of this thesis is to discover whether these constructs, which emerged from Canadian data, are usefully descriptive of Australian data. Data were collected from a group of NSW legal firms to describe the way that they were organised. Thus, two constructs are used: an ideational construct, called archetype, that operates as a Weberian ideal type and a phenomenal construct, called organising mode, that is descriptive and can be compared to ideal types.

This method is within the tradition of typologising (Miller 1980, Miller and Frieson 1984, Mintzberg 1979, Weber 1948) in which an analyst designs an ideal type and compares phenomena to it. This is not so much to measure the variance (which would be pointless, as it would be whatever one made it by design), as to provide an abstraction through which aspects of reality may become salient. Within this tradition it is anticipated that the analyst's ideal type will be objectively possible though it may not exist. The classic example of this is Weber's (1948) ideal type bureaucracy, for which he specified fifteen conditions or elements, and against which many organisational analysts have compared existing observed organisations (Burns and Stalker 1961, Gouldner 1959, Blau 1955). So, it is possible to construct a constellation of organising modes that are more or less bureaucratic than each other, by reference to the bureaucratic ideal type. Similarly it is possible to construct a constellation of organising modes that are more or less oriented to the MPB or P2 types. It follows also that it is possible to construct a constellation of ideal types. I have limited the ideal types to two. While I present data along a continuum, with MPB anchoring one end point and P2 anchoring the other, I do not suggest these are the only possibilities, nor that firms are necessarily involved in a trajectory from one
to the other. Archetype theory permits me to compare organising modes against ideal types.

The third part of my theoretical framework, circuits of power theory (Clegg 1989), explicates the deployment of power in organisations by attending to its agency, dispositional and facilitative types and the obligatory passage points through which they flow. It suggests another question, "Within the social integration and systems integration circuits of power, which characteristics and practices produce systemic variations, and in what types of organisations are these found?" (Clegg 1989:198). In this thesis, the markers of acceptance are limited to features of organising modes within NSW legal firms. Clegg's (1989) circuits of power model is used to uncover not only causal power, which is chiefly episodic, but also dispositional and facilitative power, which are socially and systemically integrative. Thus one can interpret data related to the creation and potential transmission of organising modes.

Circuits of power theory (Clegg 1989) recognises social systems as complex reflexive routes of power whose foci are episodic power relations, rules of practice and domination. These produce three identifiable, though intertwined circuits: the agency circuit, the social integration circuit and the system integration circuit. Within these circuits we find obligatory passage points that are contested. I use this theory to extend structuring theory and archetype theory. Whilst structuring theory captures the essence of reflexivity it chiefly relies upon resource dependency theory (synonymous with the agency circuit) to explain dependencies of power (Aldrich 1979, Pfeffer and Salancik 1974). Archetype theory, despite its origins, has remained largely silent on issues of power. Accordingly, this thesis extends both theories by a circuitry of power model that attends also to issues of social integration and systems integration. I set out data under the rubric of dependencies of power and comment upon each of the circuits. Circuitry of power theory permits me to analyse power in the organising modes of the firms I studied. However, given that expressions, mechanisms, and forms of power are not always transparent, operationalising circuits of power in an empirical research context is challenging. Accordingly, this thesis attempts to break new ground in this area.
Firms change all the time but some of these changes become institutionalised in the firm and some of these, in the organisational field (di Maggio and Powell 1983, Scott 1995). Cooper, Hinings and Greenwood (1996) argue that MPB is the emergent archetype in Canadian law firms. When those in firms organise they are conscious of such templates. They recognise as they move from one organising mode towards another that they are similar or dissimilar to others in their field. These organising modes are constrained by context, and enacted by dependencies of power in a fashion consistent with provinces of meaning. This thesis analyses organising practices as they become institutionalised but it also establishes a database that can be tracked longitudinally. So, in the future, I can analyse transmission of institutionalised practices within the field.

In the remaining chapters data are described, interpretations made and conclusions drawn within the framework of reflexive archetype theory. Organising modes are described against the elements of contextual constraints, provinces of meaning and dependencies of power. These organising modes can then be compared to ideal types, *qua* archetypes. The coherence of these inter-permeated elements and domains, principles and criteria is noted. Thus the theory underpins a method by which I can consider why law firms are organised as they are.

I attend to three sub-questions:

- Do the five important possibilities suggested by Ranson, Hinings and Greenwood (1980: 12-13) aid understanding of why law firms are organised as they are?
- What are the archetypes utilised by law firms (Greenwood and Hinings 1988:309)?
- Within the social integration and systems integration circuits of power, which characteristics and practices produce systemic variations, and in what types of organisations are these found (Clegg 1989: 213)?

These cumulatively permit me to answer the research question:
Why are law firms organised as they are?
THE DATA SETS

There were two data sets in the research. The first of these consisted of fifteen legal firms that were researched through field visits in Sydney during November and December 1996. The second comprised three from the original set that were investigated in October, November and December, 1997 and January to February 1998. The period between the first and second collection was occupied in analysis of data, feedback to firms and continued contact with the firms. The proper sense of this is to say that there were two intense periods of data collection, with a less intense period between. An unexpected advantage of this was that it enabled observations on how much organising had occurred between the first and second collection. Specifically, I can say that several firms in the first collection had agreed strategies and, a year later, I could see how much of their plans had been implemented.

GAINING ENTRY

Gaining entry into the legal profession to conduct organisational research is difficult. Lawyers are busy, competitive professionals who guard the productive time of their firm. They are supported in this project by their professional association, the NSW Law Society, which erects substantial barriers to entry for prospective researchers, particularly any whose research is not from the core discipline of law. The plan to overcome this crucial difficulty involved influential referral, demonstration of good faith and good work. This involved three phases: enrolling interest, broad research, focused research.

Phase one involved enrolling influential agents in the problem (Callon 1986). Professor Bob Hinings, a world leader in the field of management of the professional firm, was visiting Australia in early 1996. The present researcher contacted his University's Dean of Law, Professor Rob Woellner, and proposed that they jointly organise for Professor Hinings to present some of his research views gained from his study of Canadian legal firms to the NSW legal industry. Adjunct Professor Philip King, a member of the advisory Board to the Faculty of Law and part of its faculty, was recruited to the project. Philip King had recently stepped down as Managing Partner of Allen, Allen and Hemsley, one of Australia's oldest, largest and most influential firms. He was vitally involved with the NSW Law Society as one of its
Councillors and an executive in several of its projects. He is one of few lawyers with a deep interest in management of the law firm, and, even more rarely, has published on this matter (King 1995). Thus, an ensemble of influence was found that could refer the research into the profession. Professor Woellner is a known academic within the core discipline who has long established ties with the NSW industry. Philip King has the reputation of a Managing Partner of a firm known for its excellence in the law and is extremely influential in the NSW Law Society. Professor Hinings is one of the very few researchers whose work has concentrated upon the management of the professional firm. He is Director of the University of Alberta's centre for study of these firms and has a long and distinguished record in the field of organisational analysis. Professor Hinings addressed a NSW Law Society gathering of Managing Partners that was attended by King, Woellner, and the researcher as well as most of Sydney's Managing Partners from major firms. The meeting and the research was publicised subsequently in the NSW Law Society Journal (March 1996) in an article that was prepared by its editor with the assistance of this researcher. Additionally, the researcher contacted Geoff de Lacey, at that time a partner from a recruitment firm that specialises in placing professionals and senior executives, Peebles and Associates. He organised a meeting with the partners of a rapidly growing and closely watched legal firm, Sharwood, Eyers, Wilkie, that was one of his major clients. Professor Hinings and the researcher attended this meeting, explained the research and gained information about management of legal firms in NSW. As I have mentioned in Chapter One, NSW solicitors face much more competition now than they did a decade ago. One of their chief competitors is the accountancy profession. Sharwood, Ayers, Wilkie was the legal arm of Arthur Andersen, the international accountancy firm. It aided entry that members of the legal profession noted my meeting, in the company of a world renowned researcher into professional organisations, with a firm associated with an international accountancy firm.

Phase two was designed to demonstrate the researcher's good faith in the profession by scrupulously dealing with research subjects and the researcher's good work for the profession by producing useful advice. For these to happen it was necessary to meet lawyers in their firms and to report findings to the firms and the profession. The researcher recruited King and Woellner to a research project titled Change in Legal
Firms. They were to operate as a team with the researcher and collect data within the industry. Without them, there would be no entry into the profession at any worthwhile level. With them, the researcher was able to complete a project that produced data for this thesis as well as reports and articles to the profession (Gray, King, Woellner 1998)\textsuperscript{20}.

Phase three was designed to gain more prolonged entry into legal firms at an elite level than was possible during the first data collection. Firms were identified during this first round which the researcher could fruitfully approach. During interviews conducted with Managing Partners for the purpose of checking data interpretations the researcher proposed that he return to the firm and investigate more fully the firm's organising mode. Critically, this was not done until the researcher had demonstrated that he was associated with influential people, conducted himself scrupulously within legal firms and provided advice that was pragmatically and strategically useful to firms. Of the four firms asked to participate in this final phase of the data collection, four agreed from which three were chosen.

The process of gaining entry to professionals for the purposes of research deserves special attention. All the factors mentioned above were pre-planned as the researcher had gained experience in these techniques from his career in management consultancy. However, there was another unplanned, but equally important factor. As the researcher regularly associated himself with lawyers and their firms, his skill in dealing with them increased. There were more common points of interest and exchange. There is advice (Thomas 1995) that one needs to be acceptable to research subjects in the elite, which is often couched in mundane terms such as dress appropriately and behave courteously. The researcher's initial thoughts were along these lines, believing that his experience in management consultancy, professional presentation and maturity would be acceptable to the lawyers. But it was more than that. These were external associations that were useful to present confidently to the

\textsuperscript{20} Of course, this could pose issues of authorship in the thesis. The researcher ensured that the thesis work was separate to the change project work. He conducted all interviews that contributed data to this thesis. He analysed all data for the thesis separately from the change researchers and discussed interpretations with them. During all the thesis research he looked upon any meetings with the change researchers as data for the thesis. Several interviews with King were audio taped and these, along with other information provided, chiefly by King, form part of the data set for the thesis.
research subjects but it was not until the association was internalised by the researcher that real entry to the profession was gained. The researcher kept notes on this process that indicate this occurred by the time he visited the third firm in the first set. These notes also record the respect and attention that the researcher gained during the feedback interviews with managing partners. This is a key to the internalisation and association, which the researcher now believes was essential before the second data set could be collected.

THE FIRST DATA SET

A sample of fifteen firms was selected from NSW legal firms. It was limited to Sydney as this is the most populous and influential legal industry site in NSW and Australia. The firms were stratified by size, defined by the number of partners in the firm. The strata chosen were consistent with previous legal research (King et al 1997, Purcell, Truda, North 1995). These covered a range from single lawyer firms through to those that had several hundred partners and employed several hundred more staff. The choice was not intended to be representative of the industry and I detail limitations later in this chapter. The table below sets out details of the NSW industry (King, Fitzhenry, Gilbert, Maxwell, Roberson, Taylor, Wilson 1997: 48,49). One can note that the industry is comprised chiefly of very many small firms but it has a substantial proportion of medium and large firms.
Table 3.3 Lawyers by Type, in NSW.

<table>
<thead>
<tr>
<th>Type</th>
<th>Firms</th>
<th>Solicitors</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Personal law practitioners</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>sole practitioners;</td>
<td>2398</td>
<td>3476</td>
</tr>
<tr>
<td>small partnerships, say, 2 to 4 partners;</td>
<td>575</td>
<td>2439</td>
</tr>
<tr>
<td><strong>Commercial and corporate law practitioners</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(A) Medium sized partnerships from, say, 5 partners to 20 partners;</td>
<td>97</td>
<td>1629</td>
</tr>
<tr>
<td>(B) large firms of more than 20 partners;</td>
<td>19</td>
<td>2659</td>
</tr>
<tr>
<td>**Corporate lawyers i.e. those employed by corporations or non-lawyer</td>
<td></td>
<td></td>
</tr>
<tr>
<td>entities;</td>
<td></td>
<td>1368</td>
</tr>
<tr>
<td><strong>Government lawyers, being those in various arms of government and</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>government owned enterprises;</td>
<td></td>
<td>1394</td>
</tr>
<tr>
<td><strong>Community legal centre lawyers;</strong></td>
<td></td>
<td>118</td>
</tr>
<tr>
<td><strong>Miscellaneous</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>overseas lawyers holding a current NSW practising certificate;</td>
<td></td>
<td>125</td>
</tr>
<tr>
<td>interstate lawyers holding a current NSW practising certificate;</td>
<td></td>
<td>921</td>
</tr>
<tr>
<td>honorary members,</td>
<td></td>
<td>9</td>
</tr>
<tr>
<td>life members,</td>
<td></td>
<td>255</td>
</tr>
<tr>
<td>associate members (non-practising members, students et al)</td>
<td></td>
<td>1151</td>
</tr>
</tbody>
</table>

Source: King et al 1997

Although the intention was always to have fifteen firms in the initial data collection a total of twenty firms was first selected, to allow some redundancy and permit refusals. The selection was made by the researcher who was advised by King and Woellner. The selection of twenty firms was presented to the Secretary of the NSW Law Society who confirmed that the selection was appropriate to gather worthwhile information concerning legal firms. Firms were chosen on the basis that they were facing or had recently faced significant changes in their contextual circumstances, they exhibited a range of responses to these changes, and they traded in most of the major services of the legal industry. These criteria permitted analysis of the archetypes in use in law firms. The referent group of King, Woellner and the NSW Law Society’s Chief Executive observed that the firms I had chosen were informally...
reported in the industry as decidedly managerialist, decidedly traditional and wavering between the two. When I did gather data however the empirical evidence did not support this, as there were considerable nuances within the firms and the sample. During all of this process, and every part of the research, all data were kept entirely confidential. The advisers I have specified were the only people to know which firms were in the selection and agreed to absolute confidentiality in their dealings. No subject in the data collection knew data from any other subject. The Council of the NSW Law Society agreed to the research and a letter mentioning this authorisation and seeking entry was written to the Managing Partner or Principal of each of fifteen firms. Letters were followed up by phone calls and all but one of the original selection was willing to take part in the research. This firm was replaced and data collection organised during November and December 1996. The firms that took part in the research are shown in the table below.

**Table 3.4 Firms in the First Data Set**

<table>
<thead>
<tr>
<th>Firm's Code</th>
<th>Number of Partners</th>
<th>Those interviewed</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1</td>
<td>Sole Practice</td>
<td>Principal</td>
</tr>
<tr>
<td>A2</td>
<td></td>
<td>Principal</td>
</tr>
<tr>
<td>A3</td>
<td></td>
<td>Principal</td>
</tr>
<tr>
<td>B1</td>
<td>2-5 Partners</td>
<td>Founding partner, partner, senior associate, manager</td>
</tr>
<tr>
<td>B2</td>
<td></td>
<td>Managing Partner, partner, solicitor, administrator</td>
</tr>
<tr>
<td>B3</td>
<td></td>
<td>Managing Partner, partner</td>
</tr>
<tr>
<td>C1</td>
<td>6-15 Partners</td>
<td>Managing Partner, partner, senior associate, administrator</td>
</tr>
<tr>
<td>C2</td>
<td></td>
<td>Managing Partner, partner, senior associate, accountant</td>
</tr>
<tr>
<td>C3</td>
<td></td>
<td>Partner, senior associate, accountant, administrator</td>
</tr>
<tr>
<td>D1</td>
<td>16-49 Partners</td>
<td>Managing Partner, partner, senior associate, administrator</td>
</tr>
<tr>
<td>D2</td>
<td></td>
<td>Managing Partner, partner, senior associate, personnel manager</td>
</tr>
<tr>
<td>D3</td>
<td></td>
<td>Partner, senior associate, general manager, administrator</td>
</tr>
<tr>
<td>E1</td>
<td>50 or more partners</td>
<td>Managing Partner, partner, senior associate, administrative manager</td>
</tr>
<tr>
<td>E2</td>
<td></td>
<td>Managing Partner, partner, senior associate, accountant</td>
</tr>
<tr>
<td>E3</td>
<td></td>
<td>Managing Partner, partner, senior associate, marketing manager</td>
</tr>
</tbody>
</table>
The intention of the research design was that data from all of these firms would produce valuable interpretations in their own light. However, it was also expected that the data would emphasise several firms that would be worthwhile to re-visit and investigate more thoroughly.

THE SECOND DATA SET

Four firms were identified that were undergoing significant change or had recently undergone such change. Hinings and Greenwood (1988) advise that such a choice is necessary if a researcher is to gain an insight into the organising modes adopted. Their logic is that firms will have been de-stabilised and would therefore either reinforce their existing organising mode or strategically choose a new one. The second sample comprised three firms of different size that practised in overlapping markets and appeared energetically involved in organising. Additionally, the firms had adopted or were adopting focus strategy, differentiation strategy or cost leadership strategy. Porter (1980) has argued that these are generic strategies and whilst firms may be involved in more than one of these at any one time, it is possible to identify dominant, grand strategy. By choosing firms that represented each of these strategies it diversified the sample and made it more complex. Four firms agreed to be involved in this research and three of these eventually participated. Health problems with Managing Partners delayed this stage of the project. In two instances partners who had authorised entry were hospitalised and underwent serious operations and yet their personal *imprimatur* was necessary for the researcher to have the level of influential entry required.

HOW WERE DATA COLLECTED?

From the Elite

Data were collected by pre-interview survey forms, interviews, observations and literature analysis. Most interviews are of the elite in firms on the basis that this is where contest over interpretation of the elements of organising will be found. I recognise that there may be other contests within the firm, for example, within the law there is contest on gender lines, but this research concentrates upon organising
modes\textsuperscript{21}. Correspondence and phone calls were addressed to the Managing Partners or Principals of firms. Interviews were conducted with Managing Partners, Principals, partners, senior associates and, where possible, administrators or managers. The research investigates strategic activities of firms and whilst there may be uneven commitment to any strategy within a firm, it will be decided at elite level. At a more mundane practical level, resources constraints and agreement to entry restricted the research to this level within the firms. Perhaps because of the partnership business structure in which they work, lawyers seem less sanguine about management research being conducted at several levels of the firm than senior management of corporations appear to be.

**By Survey**

For the initial data collection, pre-interview survey forms were sent to managing partners along with a letter that set out the purposes of the research. In most cases the survey forms were returned prior to interview. These served to sensitise the members of the firm to the direction that the research was to take and gave valuable data on resources, staff, governance, challenges and opportunities for the firm and the legal profession. The survey form and correspondence are presented in the appendix of this thesis, whilst the data from the survey are presented in Chapters Four and Five.

**By Interview and Observation**

Semi-structured interviews were conducted at each firm. The protocol that was used as the guide for these interviews follows the pre-interview survey form, which is found at the end of this chapter.

\textsuperscript{21} I recognise that gender is a source of contest, and accordingly affects organising mode. There have been several cases in Sydney law firms in 1997 and 1998 in which women lawyers have proved that partners discriminated against them in their practice. One can recognise that these practices are data concerning dependencies of power or provinces of meaning. In instances where I found these I note them as data that contribute to my understanding of organising modes but I do not take the gender issue up separately. Even though I was attentive to such contests my data collection was from the elite and its representations of organising modes. I accept that a delimitation of this method is that contests between levels may go unremarked.
For large firms interviews of the Managing Partner, plus at least one other partner, senior associate, and administrative person were conducted. Not all these levels were represented in small firms. Interviews varied from 45 minutes to two hours, with most taking about an hour and a half. The researcher was joined in the interviews on two occasions by King and Woellner but retained the chief questioning role. All interviews, except one, were audiotaped and transcribed. Each participant was asked if they objected to having the interview recorded. One person did and so this interview relied upon notes taken by the researcher and written up immediately after the interview. Notes concerning the context of interviews and any observations were also kept.

All these techniques were used in the second data collection except that the interviews were unstructured and a feedback seminar and report was provided to each firm.

**By Literature Analysis**

Literature analyses of two types were conducted. This is consistent with the methodological advice given by Greenwood and Hinings (1996) in their article on collecting data in professional firms. The first was an analysis over ten years of literature that relates to the NSW legal industry. This included academic pieces, books, Government reports, Law Society Reports and journals. From these were gained an insight into the contextual constraints that faced the legal industry generally. The second, specific to the firm, included any information gleaned from the above sources as well as any literature that could be obtained from the firm. This last took the form of organisation charts, mission statements, histories of the firm and brochures for clients. Under this rubric, the firms in the second data collection were more deeply researched than those in the first collection.

**By Boswelling**

During the feedback interviews, at which the researcher presented interpretations of data gathered in the firm, four of the managing partners or principals were approached to see if they would agree to the researcher visiting the firm for a week
or so. During this period the intention was to compile a strategic history of the firm, interview, and shadow a partner for a day. This last technique was dubbed Bosswelling\textsuperscript{22} by R.J.S. MacPherson (1985) when he employed it whilst tracking Regional Directors of Education in an Australian State. He referred of course to the famous biographer of Samuel Johnson, Boswell, who wrote his biography after following him for several years. Macpherson took weeks. Boswell took years. I was granted a day by one of these partners. I spent this long day with the partner, taking notes unobtrusively, responding when questioned but never volunteering information. During informal times, when for example, we travelled in a cab or a lift, or had a snack or a drink, I asked the partner how he interpreted activities. The results of these efforts are set out in Chapter Six.

Because of the nature of professional privilege, a Common Law precept by which information that flows between client and lawyer is confidential and cannot be found by a Court, I was contracted to absolute confidentiality by each firm. In one instance this involved my employment by the firm for the period in which I collected data. Several of the circumstances involved me with clients outside the firm and I understood that I was bound contractually as well as ethically in these instances. For example, if I met a client corporation’s representative, whilst professional privilege might not be involved, contractual and ethical confidentiality was.

\textbf{By Triangulation}

Data collecting is an iterative process that is inextricably linked with theorising. Whilst we may appear to have separation between theory and data we rarely, if ever, do. Data lead one to interpretations which makes theory which leads one back to data for confirmation and perhaps another hermeneutic spiral. Ignoring theorising for the moment, one can say that another method of generating data was triangulation (Emory 1980). By using several methods of collecting data it gives the opportunity to 'get a fix' on data from different perspectives. If, for example, the observations are

\textsuperscript{22} It is quite an impost to expect a partner to permit a researcher to spend time watching the professional process. Three of the four asked would not countenance the idea. The one who did agree seemed genuinely swayed by the term. When I asked him he responded, "What, like Johnson?" and after considering professional privilege agreed. These people make a significant contribution and can be forgiven some hubris. Particularly if it gains another level of access.
consistent with the surveys and the literature then one's confidence in the data improves. Moreover, this triangulation may suggest new cumulative data.

**HOW WERE DATA INTERPRETED?**

The mechanics of interpretation were these. First all data were entered or referred to in a software program called NUD*IST (Richards and Richards 1991) which aids analysis of qualitative data. Interview transcriptions became records within this program whilst organisation charts, histories, notes and the like were referred to as 'off line' documents. Data were coded for demographic purposes and then for fit into conceptual categories, which Richards (1992) calls open coding. The conceptual categories were those set out in Chapter Two: contextual constraints, provinces of meaning and dependencies of power. These were added to as details and as interpretations accumulated. They included, but extended, the categories suggested by Cooper, Greenwood, Hinings and Brown (1996) of systems and structure. Whilst this is an active process, in which the database grows and changes under analysis, an impression of the coding tree at the time of publication is included below.

**Figure 3.1 Main Branches of Nudist Tree**

![Tree Diagram]

Additionally, intuitive interpretations were tested in the field. Some of these then caused amendments and inclusions to the tree. For example, whilst interpreting whether organising modes were coherent I noticed that some of the firms fitted
Porter's (1980) generic strategies and consequently I constructed a chart in which firms were categorised by strategy. This led me to hypothesise that firms' tendencies to archetypes may be related to contingency factors such as size, or intentional strategy. This led to re-coding and re-interpretation. Thus, interpretations emerge from the data (not at all wilfully).

The software program was where I stored, referenced and collated all data and where interpretations once generated were recorded. The program is powerful and efficient. It can provide frequencies and relationships of data but it is the analyst who creates the questions that permit interpretation. It is within NUD*IST that one finds all this thesis' data or references to it and as interpretations lead to data then one must recognise that these interpretations are data also.

DELIMITATIONS

Whilst several delimitations have been mentioned so far in the text, it seems appropriate now to gather them together. The method is chiefly built upon cases, from which rich qualitative data are gathered. These are sufficiently robust for theory to be built and tried. The data were collected from Sydney law firms at specified periods of time, which delimits any claims based on those observations to those times and firms. I use these data to interpret organising modes and compare these within the selection. The interview and survey data were collected chiefly from the elite of firms, although other data from various levels were included. I recognise that the view I gain is that from the strategic apex of the firm and that this view might be contested at different levels. I am practically and discursively conscious of these delimitations in my interpretations and conclusions and this consciousness forms part of the method.

SUCCESS AND MEASUREMENT

As I gathered data on the firms I noted evidence of achievement of published goals, earnings per partner, net profitability, growth in revenues, growth in profits, strategic statements by the firm about its performance and statements by people outside the firm about the firm's performance. These data accumulated so that I could make
judgements concerning the relative success of firms. I don't claim that these judgements are quantitatively exact but they are relatively reliable.

As the research unfolded I found that I was making these judgements without intending that firm success and its measurement became part of my method. However, I chose to incorporate it when manipulating data in an abstracted way. I had been able to specify the type of grand strategy that each firm adopted by document analysis and interviews with Managing Partners. I had plotted these into quadrants. Within the quadrants I was able to rank the firms in accordance with their strength of strategy. So whilst C1 adopts a focus strategy it does not do so as robustly as does D1 and I could plot the two firms accordingly. With the data so arranged I reflected on it. I knew that D1 was very successful and that C1 was adequately successful but economically threatened in two of its market segments. So I reviewed my notes on success for each firm and eventually compared data on success with data on strength of strategy for all firms. I then extended this by my planned method of measuring coherence of organising mode and noted that the three elements showed elective affinity. Firms that were strongly strategic were coherently organised and successful. Thus, I was to discover a method that emerged from the data and draw inference from it that produced patterns. In fact it surprised me.

My access to data varied from firm to firm. I was given access to financial data normally reserved to partners at five of the firms. Three firms provided me with comparative data which was strictly confidential to them. Forty Australian law firms contributed these data which cumulatively provided excellent comparison without revealing identity. My informants indicated their firms in this array. Additionally, my observations and document analysis contributed to my understanding of firms’ success.

Practically, this part of the method is thus grounded in the data and, as such, it illustrates my overall approach. Firm success is the analyst's judgement based on an ensemble of data for each firm. As it is a relative concept I comment upon it in Chapters Four and Five when I compare firms within each stratum, and in Chapter Seven, when I provide final interpretations.
DEFINITIONS AND RESEARCH ARTEFACTS

When all the data had been collected and interpreted by the researcher, a series of referent group meetings was held to confirm interpretations. To aid in this process, charts were constructed that compared the firms against variables emerging from the data. These variables related to the structure and systems of firms. For example, in an attempt to discover whether systems were managerialist I investigated the quality management approach of each firm. Importantly, these charts show comparative ranking. The scales were not interpreted as in ascending order of merit but as on a continuum. For example, a firm that was scaled at seven on quality management adopted a decidedly systematic and total quality management approach whereas one that scaled at two relied upon fundamental quality of a professional nature. These charts were used again during feedback interviews with principals of firms and in effect became an artefact of the research.

I realised that the power that I had as researcher was access to comparative data. I could tell a firm how it compared with others, without of course, breaching confidentiality or the identities of those other firms being revealed. I was also very mindful, as discussed above of the need for confidentiality. If I was to describe firms in language, my subjects would very quickly guess who else was in the sample. Moreover, lawyers, particularly Managing Partners, are used to succinct briefings. I therefore decided to reduce my data to major elements and then assess each firm on an ideational scale. I chose elements that gave me insight into the contextual constraints, provinces of meaning, dependencies of power, domains, principles and criteria. I checked these with my referent group, who agreed that these were important elements to a law firm and properly captured the sense of the data. The definitions of these elements, which were shown to feedback interviewees, follow.

THE TERMS USED IN THE RESEARCH

The following terms were used in the research and were provided to principals of firms at feedback meetings.
Marketing Focus

The extent to which the firm has a clear notion of the market it serves and the resources it applies to marketing itself. Interestingly, this may not mean formalised appointment of marketing staff nor conventional marketing techniques.

Quality Management

This relates only to the concepts of Quality Management embodied in process systemisation and improvement, client focus, and quality assurance. Of course the very notion of professionalism means that quality management must be a deeply considered characteristic of legal work, but that does not necessarily mean a Quality Management approach. Consequently some firms adopt a highly professional, in a legal professional sense, approach to the work, without ranking as highly on quality management as others do. A case in point would be A3, which is renowned for its professionalism and quality legal work, but is not deeply involved in Quality Management as defined here.

Strategic Planning

This relates to the extent to which a firm manages the strategy process. Once again, this does not necessarily mean the appointment of people or governance structures to produce strategic planning but will always mean establishing long term goals, monitoring the environment, and making appropriate adjustments to the affairs of the firm.

Leadership

This involves assuming responsibility, encouraging followers, adopting a strategic view, taking advice from others and applying judgment as to its efficacy. This is not necessarily embodied in a person. It may be diffused throughout the firm.

Specialisation

Specialisation refers to product specialisation as well as market specialisation. It is possible to focus on a part of the market and deliver several products to it. An example would be of the very large firms that provide general commercial services, but to a tightly focused niche or a number of specialised services to a specialised or even general market. Questions of product specialisation are of course more easily
determined, a firm specialising in, say, environmental law, can be clearly seen as specialised.

Financial Orientation

This is a relative term. All firms will have a tendency to financial orientation or else they would not survive. Nonetheless some firms, in the way they transact business, emphasise this more than others do. This assessment has been made for each firm with respect to all data available.

P2/MPB

This too is a relative term. Each firm tends towards one or the other points on a spectrum\textsuperscript{23}. P2 refers to professional partnership. A firm that approaches this extreme emphasises, very heavily, the professional aspects of law and service to the client and expresses an approach that is non-managerial. A firm at the other end of the continuum approaches MPB, Managed Professional Business; although it may be equally professional in its methods, those within it tend to speak about, and use, managerialism\textsuperscript{24}. Thus explained one can see that there is no right, wrong or normal spot upon the continuum. I had regard to the criteria for the ideal types P2 and MPB set out by Cooper, Greenwood, Hinings and Brown (1996) in determining where I placed firms on the continuum constructed between these types. I divided the continuum into ten divisions to aid display of comparisons.

In constructing the scale MPB/P2 I had regard to the elements, domains, principles and criteria. All the data were assembled into organising modes and compared with the ideal types, P2 and MPB. This produces a typology of the firms. These charts and the typology were discussed with the referent group mentioned earlier to ensure that they captured the essence of the data.

\textsuperscript{23} I will return to this shortly and explain the method of this first attempt at categorising organising modes

\textsuperscript{24} Managerialism means the adoption of formal systems in strategy determination, development and control. An extreme example of this would involve a legal firm conducted along corporate lines wherein its partners appoint a Board to take managerial decisions and staff to effect those decisions and in which professionals were no more than operatives answerable to the hierarchy of the firm.
Systems/People Orientation
This feature describes a continuum. At one extreme is a firm which is highly systematised whilst at the other is a firm that relies on peoples' skills to serve its clients. All firms will have some mixture of these attributes and the researcher interpreted to which extreme the firm tended.

Innovation
Innovation means the introduction of something new to the marketplace. This can be, but is not limited to, technology, product, service or new managerial approach. One of the most frequently expressed areas that firms saw as innovation was the use of technology. They saw this as a challenge and an opportunity for the legal profession. Some have adopted technology and drive the business by its use. Others had adopted technology and were trying to integrate it into their system. Innovative firms were able to balance technology and other factors mentioned with a very clear concept of strategy.

Attitude to change
A major driver of the research has been an effort to describe the attitude to change that is expressed by lawyers and the organising modes adopted within firms to achieve effective change. The ranking on this element represents a judgment based upon all data gathered and a considered interpretation as to the firm's approach to change. For example, a firm which may express a strategy of adapting to change but which has little evidence of having effectively implemented systems to change will rank low on this element.

Scaling
The scales used represent relative tendencies of firms in each element. For example a firm can conduct its quality management by chiefly concentrating on the professional template of its lawyers or by systematised techniques associated with Total Quality Management. One is not better nor worse than the other but for the purposes of exposition these are shown on the scale. The firm near zero on the scale relies upon professional template quality management. The firm near ten on the scale relies upon Total Quality Management. Charts were prepared from these that set out interpretation of the firms' comparative ranking on these scales. The charts, which
are set out in Chapters Four and Five, display an interpretation of an individual firm's performance on elements; firms' scores on elements by stratum; individual elements and all firms' scores; so that comparative analysis can be made. The following are an example.
Chart 3.2 Firms with 16-49 Partners all Elements

Firms with 16 to 49 Partners

Marketing Focus
Quality Management
Strategic Planning
Leadership
Specialisation
Financial Return Orientation
MPB/P2 Orientation
Systems/People Orientation
Innovation
Attitude to Change
Chart 3.3 Quality Management for all Firms

Quality Management

E3
E2
E1
D3
D2
D1
C3
C2
C1
B3
B2
B1
A3
A2
A1
The device worked. Feedback interviewees rapidly understood the nature of the scales, though some required occasional reminding that the scales were not scores.

THE ORIGIN OF THE ELEMENTS

The elements emerged from the data and were related to the theory. I considered the data I had collected and asked, "How can I sensibly discuss these data?" I needed to be able, in the final analysis, to interpret how firms organised. I also needed to be able, in this stage of analysis, to collate the data and confirm that what I saw was a reasonable interpretation agreed by my referent group and the managing partners of firms that I had visited. So I constructed these elements and scales bearing in mind both tasks. They reflected topics constructed from sensitive data. For example, I accumulated information about firms' promotions, pricing, marketing strategy, sales management and the like. These I accumulated into the category marketing focus, which was meaningful to partners and representative of the data. The elements emerged from the data and the needs of feedback interviews. They reflected criteria within the ideal types, MPB and P2 (Cooper, Hinings, Greenwood and Brown 1996).

WHAT DID THE RESEARCHER LOOK FOR?

Researchers can never value free or truly objective (Weber 1948). In methodology of the social sciences, the ideal of objectivity has been drilled into researchers so that some think it is phenomenally possible. A researcher can, and should, make all reasonable and thorough efforts to ensure that what he or she reports is consistent "according to the usual academic standards of reasonableness and objectivity" (Parker 1997: 39) but we need to define what these standards are.

All researchers enter projects with a practical consciousness of what it is to do research in that field. Most who do sound research, do so with a discursive consciousness (Giddens 1984, Schein 1985). One should be able to identify the theoretical constructs that are taken into the field and the methodological tools that are employed. It is necessary to consider rigorously the goodness of fit of these to the
project at hand and to be able to justify these to one's professional colleagues, and, in some instances, those involved in the research (Schein 1997).

Researchers look for certain things that help them 'make sense' (Frost 1995) of what they see. They find patterns in the data, trends, tendencies and the like. Kuhn's (1962) well known treatise on 'normal science' argues that we do this because we have developed theory and we search for things that match our way of knowing the world. There is, inherent in this, the danger that we may 'not see' data that do not match our way of knowing. So we proceed into the field with our box of theory and method tools and must remain alive to the unexpected, the counter-factual, the unexplained, and beware of interpreting matters that confirm our pre-conceptions, if we are to do sound science.

Natural science attends to these matters by experimentation and prediction of natural events. By experiment, Newtonian law of attraction can be 'proved'. By natural observation, Einsteinian predictions based on time/space relativity can be proved. These last, as it happens, disprove Newton. But 'neither are true, just fashionable' as Dewey (1967) and Nietzsche (1954) have put it. Natural science has the aura of objectivity about it but no scientist worth her NaCl believes that 'truth' has been found. All science, natural and social, is based on the tenet that researchers collect and interpret data in ways that are defensible within the researcher's community. Schein (1997) advises researchers to explicitly note constructs and tools in use whilst collecting and interpreting data and to ensure that one's interpretations 'make sense' to the research community. This chapter sets out explicitly the constructs and method tools in use.

So the researcher looks for data that are rich and interprets these given his or her sense of things, which should be explicitly stated. The next sections set out this researcher's sense of things and accordingly, what he looked for. However, this needs to be tempered by the assertion that the researcher remained discursively conscious of the necessity to recognise the unexpected.
CONTEXTUAL CONSTRAINTS

The method of this thesis involves building a reasonable story about the context in which data are collected and interpreted. The work is isolated to the legal industry of NSW and fifteen firms within it. So the first task is to understand the context of the legal industry in 1996, 1997 and 1998, when the thesis was chiefly completed. Greenwood and Hinings (1988) advise that this is a necessary, and probably first step, when one investigates organisation in a professional service field. The researcher analysed literature that extended over a period of ten years prior to the research. For each firm investigated a similar process was completed, though the second data collection involved more thorough collection under this rubric than the first did.

Patterns in the data were determined which are recorded in several parts of this thesis. Chapter One, which introduces the thesis, sets out industry contextual constraints, including notable features and debates. Chapters Four, Five and Six, which report the data of the thesis, set out more detail concerning the impact these constraints were having on firms visited as well as detail concerning the 'external' and 'internal' constraints faced.

PROVINCES OF MEANING

To uncover provinces of meaning a researcher effectively completes a cultural analysis (Schein 1984, 1997) of organisations under study. Their externalities and internalities must be considered. Their cultures will be influenced by institutional considerations of legitimacy and market considerations of efficiency. Therefore, the provinces cannot always be unbundled from the contextual constraints and data may be classified under either heading.

The researcher looked for artefacts in use, behaviours such as ceremonies, language, governance, representations such as office layouts, dress, and compared these to values that were espoused and enacted. For example, it was surprising how often partners of large firms emphasised that they wanted their firms to be 'fun to work in' and 'not some battery of lawyers, billing every minute of their life'. In some firms these values were formally expressed in documents such as mission statements,
induction booklets, or statements of core values; thus one can say these are espoused values. The enacted values may be at variance with these espousals. For example, although managing partners may say they want fun and professional challenge they may enact systems that tightly account and control for 'every minute of life'. A delimitation of the research is that most of the data were collected from the elite and there is accordingly little opportunity to challenge espoused values but by this interpretive method. The researcher sought "cultural imperatives" (Schein 1997:16) that were espoused and reasonably enacted within the firms visited. It was accepted that these were the imperatives of the dominant coalition within the firm.

DEPENDENCIES OF POWER

Particularly in the second data set, the issue of power was closely attended. Clegg's (1989:214) three circuits of power were traced in each firm. Episodes of causal power that seemed sufficiently significant to affect the firm's organising mode were analysed. In some instances, the resources of individual agents seemed important and were analysed. The rules of practice of dispositional power in the social integration circuit were traced, paying special attention to the obligatory passage points that were established by agency and the way these fixed meaning and membership. The domination that facilitated the system integration was also attended, with particular emphasis upon innovations in techniques of discipline and production, *qua* organising mode.

ORGANISING MODE

In summary the researcher looked for organising modes, a concept that was explained in the previous chapter. Each of the elements mentioned above constitutes and is constituent of organising mode, thus there is a sense of hermeneutics in the method. Any categorisation is arbitrary. What appears to be chiefly a contextual constraint today, appears to be provinces of meaning tomorrow and dependencies of power the day after. In a way, this does not matter, as it is the ensemble that is sought rather than any one aspect of it.
HOW IS THE METHOD APPLIED?

All these elements of method that I have described in this chapter are applied in an integrated fashion. The research question asks, "Why are law firms organised as they are?" Literature analysis, observation, interviews, case analyses provide data that are interpreted. The interpretations are arranged in response to a series of sub-questions.

First I ask, "What is the organising mode of this firm?" To answer this I assemble data under the rubrics of contextual constraints, provinces of meaning and dependencies of power. I consider how these elements inter-permeate each other.

Second I ask, "How does this organising mode compare to the archetypes Managed Professional Business, MPB, or Professional Partnership, P2?"

Third I ask, "Is the organising mode coherent?" To answer this I consider the relationship of the elements to each other, their relationship to the criteria for archetypes and, for the three deep cases, the relationship of the ensemble to domains, principles and criteria. An example may explain this. If a firm had a coalition that had sufficient power to adopt managerial systems that were consistent with the firm's province of meaning\textsuperscript{25}; if its elements were consistent with domains, principles and criteria then it has a coherent organising mode\textsuperscript{26}. One can typify how close to an ideal type it is by comparison with other firms and the criteria for archetypes. There might also be a firm that has all these elements in place except that the coalition has decided not to act until it is convinced that sufficient members of the firm would accept managerialism. If one was to inquire whether all elements were consistent, inconsistencies would be found. This second firm would be incoherently organised.

Fourth, I ask, "Why is the firm organised as it is?" In answering this question I consider each of the propositions raised by Ranson, Hinings and Greenwood (1980:

\textsuperscript{25} I do not mean that all members of the firm accept managerialism. I do mean that sufficient members do, or do not object sufficiently to seriously contest the values.

\textsuperscript{26} I do not claim that the question of coherence can be answered exactly. Firms must always be oscillating around some point of dynamic equilibrium. At this ideational point of equilibrium one would find exact coherence but it is unlikely that an analyst could collect sufficient data rapidly enough to note this point.
"Has there been a change in provinces of meaning?" "Are there inconsistencies and contradictions between the purposive values and interests that lie behind the strategic implementing and warranting of the firm?" "Has there been significant changes in resource availability or other key sources of organisational uncertainty?" "Has there been a major change in situational exigencies such as size, technology, and environment?" "Have there been 'contradictory imperatives of situational constraints'?"

I seek answers for each of these four questions:

- What is the organising mode of this firm?
- How does this organising mode compare to the archetypes Managed Professional Business, MPB, or Professional Partnership, P2?
- Is the organising mode coherent?
- Why is the firm organised as it is?

I then consider these same issues for the entire collection of cases and seek patterns in these interpretations so that I can answer, "Why are law firms organised as they are?" Thus the research is explicitly comparative.

**WHAT DID THE RESEARCHER EXPECT TO FIND?**

As I have said earlier in this chapter, no researcher enters the field value free. There will always be some expectations and researchers should explicitly consider these. My interest in this project commenced with theoretical concerns. I had considered deeply several of the works on professional firms by the Archetype theorists and these had raised expectations of what I might find in the field.

The collection of cases in this thesis ranged across very small firms to very large firms. Cooper, Greenwood, Hinings and Brown (1996) reported that there was an emergent archetype in the Canadian legal industry. I therefore expected that the organising modes of firms would have moved towards MPB. I expected that this would be emergent but not universally admired. I expected that organising modes near MPB would prevail because this is efficient (which has particular status in the
systems integration circuit). I expected that this would be struggling for legitimacy with a conservative profession fairly slow to move, where reaction would be championed by some really influential figures in the industry. I expected that organising modes near MPB would be most readily and consistently accepted in the very large firms that have contextual constraints forcing them towards managerialism.

CONCLUSION: WHAT DID THE RESEARCHER FIND?

All data are reported in the next three chapters. Chapters Four and Five set out the first data collection. I divided this presentation into two chapters because each of the data chapters is long. To present them as one chapter would make for a very unwieldy chapter. Chapter Four presents data from the first two strata and provides some analysis of these strata. Chapter Five presents data from the last three strata as well as analysis. Chapter Six presents data from the three deep cases. All of these are interpreted in Chapter Seven.

This chapter has set out the research question and the method that is employed in answering it. The method, the data and the theory inter-permeate each other. There is a sense that reflexive archetype theory encourages one to attend to the issue of reflexivity not only in theory building, but also in data gathering and theory testing.
CHAPTER FOUR:

THE DATA FOR FIRMS WITH LESS THAN SIXTEEN PARTNERS

I see a corporation in the common law sense, namely the sense of a group of individuals who have invested for a common return, but in the purpose, between the investment and the common return they tend to do their own thing. It's very much the seventeenth century idea of the corporation. (Partner at B1).

If you had a corporation where all the shareholders, in fact, came to work every day and worked in that corporation, it would be bloody impossible to manage it. Here we have people, want people to have ownership in the operation. (Partner at C2).

The Partnership structure is a very inefficient way to run a business. I think a corporate structure is much better. Maybe the partners should have certain shares in the business itself and we have a General Manager and we sit as a Board of Directors or whatever, but people do tend to interfere and that's an inefficient business structure. (Partner at C3).

Putting structures into this organisation's like trying to nail jelly to the wall. (Finance Manager at C3).

INTRODUCTION

The first collection of data for this thesis involved fifteen legal firms in Sydney at which interviews, observations, document collection, and feedback meetings were held. This set generated interpretations and conclusions but also identified three firms that were re-visited and more deeply analysed. The data collected in this first set were voluminous so I have divided them into two chapters. This chapter sets out the initial data set for the smallest nine of the firms visited and chapter five sets out data for the largest six firms in the collection.

The first section of the chapter sets out details about the collection: number of partners and staff in a firm, governance system, strategy, types of planning, technology in use, marketing techniques, quality system, and challenges identified by firm's principals. The second section presents, initially in narrative form, and then in
chart display, data on individual firms. These data are briefly analysed against the
criteria provided by Cooper, Hinings, Greenwood, Brown (1996) by which they
define Managed Professional Businesses or Professional Partnerships. In this way I
judge whether a firm approaches one or the other ideal type. In addition to comments
about individual firms I also address the circumstances of each stratum of firms.

DETAILS ABOUT THE COLLECTION

Each firm was mailed a survey form and its Managing Partner asked for data on the
systems, governance and challenges foreseen for the firm and the industry. Their
responses are set out in the following table.
Table 4.1. Survey Responses of Strata A, B, C.

<table>
<thead>
<tr>
<th>Firms</th>
<th>Governance &amp; Structure</th>
<th>Grand Strategy</th>
<th>Planning</th>
<th>Technology</th>
<th>Marketing</th>
<th>Quality System</th>
<th>Challenges to firm and profession</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1</td>
<td>2 partners, 1 legal, 4 administrative staff. Decisions by senior partner. Specialist in personal injury also practises property and probate.</td>
<td>Differentiation</td>
<td>Mission, Strategic Plan, Business Plan, Financial Plan, Marketing Plan.</td>
<td>Independent personal computers (PCs)</td>
<td>Partner contacts, newsletter, client care, advertising, direct mail, customer surveys, providers' surveys, formal marketing plan.</td>
<td>ISO and QIL accredited</td>
<td>Proper delegation for partner's quality of life. Constant imposition of bureaucratic requirements by Court timetabling.</td>
</tr>
<tr>
<td>A2</td>
<td>Sole owner (chambers practice), Specialist in environmental and local government law</td>
<td>General Practice</td>
<td>None</td>
<td>Independent PCs.</td>
<td>Partner contacts, client functions, advertisements in Law Journal, no formal plan.</td>
<td>None</td>
<td>Marketing. To retain professionalism.</td>
</tr>
<tr>
<td>A3</td>
<td>Sole owner I admin. Generalist in property, probate, commercial</td>
<td>General Practice</td>
<td>None</td>
<td>Independent PCs</td>
<td>Partner contacts, client care, Xmas cards, no formal plan.</td>
<td>None</td>
<td>Getting administrative staff, providing high quality personal legal service. Maintaining profitability.</td>
</tr>
<tr>
<td>Firms</td>
<td>Governance &amp; Structure</td>
<td>Grand Strategy Type</td>
<td>Planning</td>
<td>Technology</td>
<td>Marketing</td>
<td>Quality System</td>
<td>Challenges to firm and profession</td>
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</tr>
<tr>
<td>B1</td>
<td>6 partners, 7 legal, 9 admin. Staff. One partners has adopted role of MP though not elected but firm decides matters collegiately. Corporate commercial specialist.</td>
<td>Focus</td>
<td>Not set formally.</td>
<td>Each lawyer has whatever is needed and this is sophisticated.</td>
<td>Partner contacts. But this firm uses media expertly and is very well recognised.</td>
<td>None</td>
<td>To retain a professional approach.</td>
</tr>
<tr>
<td>B2</td>
<td>4 partners, 2 legal, 4 admin. Managing Partner with regular partner meetings. This is a generalised practice.</td>
<td>General Practice</td>
<td>Driven by MP.</td>
<td>Minor PCs</td>
<td>Sponsors community projects, advertises.</td>
<td>QIL</td>
<td>Not stated.</td>
</tr>
<tr>
<td>B3</td>
<td>3 partners with a Senior Partner. Property development conveyancing</td>
<td>General Practice</td>
<td>Meetings with partners</td>
<td>Minor PCs</td>
<td>Partner contacts.</td>
<td>None</td>
<td>Competition from solicitors, pressure to find new clients, impact of competition legislation.</td>
</tr>
<tr>
<td>Firm</td>
<td>Governance &amp; structure</td>
<td>Planning &amp; strategy</td>
<td>Technology</td>
<td>Marketing</td>
<td>Challenges to firm and profession</td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------</td>
<td>------------------------</td>
<td>---------------------</td>
<td>------------</td>
<td>-----------</td>
<td>----------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cl</td>
<td>1 partners, 19 legal, 40 administrative staff</td>
<td>Focus but not well developed</td>
<td>Partner contact, client functions, newsletter, client care.</td>
<td>Partner contacts, client functions, newsletter, newsletter reporting, e-mail, network, precedents on line.</td>
<td>Need to adapt to change, may solid client contacts to develop. To remain just a business and develop the goodwill which the community has to individual lawyers.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C2</td>
<td>This firm has seven lawyers, and 18 administrative staff. The firm specializes in personal injury, wills, and estate administration.</td>
<td>Highly planned firm that is managed by its Managing Partner. Plans are ratified by partner meetings and based on the preparation of individual reports.</td>
<td>The very latest and most advanced technology is used to link very closely with customers.</td>
<td>Partner contacts, client functions, newsletter, newsletter reporting, e-mail, network, precedents on line.</td>
<td>Not stated</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C3</td>
<td>13 partners, 76 legal, 119 admin.</td>
<td>Focus</td>
<td>Major, arguably the most advanced legal technology in Australia. Linked PCs using networking to clients and branches.</td>
<td>Keeping S/C A of technology and maintaining.</td>
<td>Keeping S/C A of technology and maintaining.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Notes:**
- **Firm Cl**
  - Old but effective linked PCs, financial reporting, e-mail, precedents on line.
  - Senior Partners are EEO partners.
  - Mission, monthly management accounts, individual lawyer practice reports.

- **Firm C2**
  - The very latest and most advanced technology is used to link very closely with customers.

- **Firm C3**
  - Keeping S/C A of technology and maintaining.
NARRATIVES AND CHARTS OF INDIVIDUAL FIRMS

FIRMS WHICH ARE SOLE PRACTICES

CASE A1

Contextual Constraints

The firm operates in a well-appointed modern office in Cabramatta. This is an outer suburb of Sydney, with the highest rate of unemployment in NSW, the highest number of people with Non-English speaking backgrounds in NSW, one of the lowest average incomes in Sydney and the highest crime rate in NSW (Wilkie and Gray 1998). The firm specialises in personal injury and is managerialist in its strategic determination, implementation, marketing and office management. It has adopted total quality management principles and is accredited by the Quality in the Law (QIL) program of the NSW Law Society and the International Standards Organisation (ISO). The firm has two partners with the founding partner its chief executive. It employs two solicitors and four administrative staff. All administrative staff reports to the founding partner, as does one of the employed solicitors. Although a small firm, there is clear structure and hierarchy based upon functions.

It is extremely customer focused and has systems for ensuring that clients can feedback their opinions on how well the firm is serving them. It is considering a re-location of premises and introduction of new services because of perceptions gained by surveying customers and providers.

We know, for example, we have to leave Cabramatta. Our clients are telling us, location is a problem and it's a constraint on growth for us now. So that's one of our priorities in our strategic plan that we will relocate somewhere, probably to Liverpool or round there, there are some other things that we're considering.

Personal injury has declining segments within it, particularly workers' compensation, but this firm has a large and growing share of its regional market in workers'
compensation. Its consideration of new services represents strategic recognition of the segment's decline. It intends to remain a specialist in personal injury and foresees that workers' compensation will continue to be its staple for the medium term. As its principal remarked, when explaining that the firm is strategically readying itself to diversify,

Our plans are that we remain in personal injury and what we will probably have to do is to involve the firm in areas that are related. Whilst, for example, at the moment workers' compensation is under threat, there may be other areas we can evolve into such as product liability. Medical negligence appears to be a growing field, although one in which I would not, at this stage, want to get into. I think it's a very specialised field and one which ought to be handled by those couple of firms that really have the expertise to take it on.

It has operated since 1980 and recently reviewed the history of the business over the last decade. It notes that it does less now than previously but that cases are more profitable.

We've always seemed to have been busy although in terms of the number of files that we opened, it's probably less than we used to open probably in 1986/87. We're probably opening less files per annum than we did at that time, but the files that we're opening are more profitable. I think because we're not taking on certain types of matters; what we might call "rubbish matters" and which don't really earn us any money, we just do a whole lot of work and it ends up being a more a 'public relations' type exercise. We've stopped taking on those types of matters. There are still matters we take on where we don't end up earning any fees in the personal injury field, but you have to do that if you're going to be in personal injury.

Personal injury is a segment of law that operates on a contingency scale basis. Lawyers are paid a percentage of the award that their client attains. Consequently, a tightly managed business needs to review the cases that it accepts to ensure profitability. The principal of this firm feels that the systematisation that he has implemented has enabled him to closely review performance and remain profitable in a declining market. The firm has a fully developed strategic plan that is reviewed annually.

27 Even within workers' compensation it specialises, referring all matters under Commonwealth legislation to C1.
Oh, the strategic plan was developed, this current one has been developed in, I suppose, consultation with everybody in the firm. What we did this year was that we broke the practice up into three distinct parts and we sent everybody away to develop their ideas. Then we got together on a Saturday, not everyone in the firm, but the three solicitors in the firm got together on a Saturday and we thought through the firm's strategic plan. I put together an action plan for people to follow and people were allocated responsibilities under that action plan. Then we worked on a new business plan from there.

Governance is formally by partners' meeting but more often than not matters are decided informally and ratified subsequently. The founding, senior equity partner is the chief executive officer and effectively controls the business.

**Provinces of Meaning**

The décor of the offices is modern, relatively expensive and comfortable. The waiting room has on display literature concerning the firm; brochures on giving evidence and citizen's rights, videos on trial processes, plaques of award, and a plaque of the firm's mission. A very skilled administrator, who has been trained in customer service and quality management, staffs it. The principal's office and all the offices visited are decorated in a modern light filled fashion.

The firm uses standard letters, statement of expenses and bills that have been designed by its staff. Everything is written in a plain English style that avoids jargon. For example most lawyers will specify a bill as including costs whereas this firm specifies, "Your expenses which we paid on your behalf." Surveys of customers are conducted mid-matter and at the conclusion of every case. Regular surveys are sent to providers such as medico-legal practitioners, occupational therapists, rehabilitation therapists as well as present and past customers. Part of this effort has to do with systematising opportunities for improvement and part has to do with marketing. There is a very clear emphasis on the importance of the individual customer of the firm.
The principal of the firm is firmly committed to total quality management. For him it defines management. He uses the language of the quality movement in his speech that tends, occasionally, towards evangelism of its cause.

I didn't have any managerial experience at all, other than from my own experience in running this legal practice. About two years ago then, articles started to appear in the Law Society Journal on total quality management by Philip King. And from those articles I started to think a little bit more about management. I had no, running a business all these years you know, you don't have any management training. One of my clients, CW, who happened to come and see me about something around about that time, was the Registrar for the Australian Quality Council and she sort of acted as a consultant, a part-time consultant for us to start us involved in a quality journey. From there I got involved in QIL (Quality In Law, a quality system sponsored by the NSW Law Society) and I joined QIL and then I started to look at what seminars were available from a management point of view.

The principal of the firm espouses quality management as the driving value behind the firm. This espoused value is enacted in artefacts such as décor, letters, surveys and practices such as the performance appraisal system and the network of lawyers interested in quality that it has established.

Dependencies of Power

Its founding, senior equity partner dominates the firm. One can trace each of the circuits of power (shown in the figure below) and find that he controls each of the obligatory passage points. He is also becoming influential within an external circuit of power that attempts to influence the legal profession in NSW to adopt QIL practices.
Figure 4.1 Circuits of Power

Source: (Clegg 1989:214)
Issues of resources are determined in a systematised manner but the only person to commit the firm's funds in any appreciable way is the founding partner. He has established social integration by determining strategy, deciding who shall implement it and tightly monitoring results. He decided to embark on quality accreditation. He authorises staff to attend training that emphasises his vision for the firm. All surveys are initiated and reviewed by him. He dominates the system integration circuit of the firm and is the only external representative of the firm. He attends Law Society functions, Best Practice network meetings, QIL sessions and effectively presents quality as driving his firm and potentially capable of driving other firms. None of this is surprising as it was only three months before the research was conducted that the second partner joined the firm in a junior capacity; to all extents and purposes this firm operates as a sole practice. This firm may be a nascent example of institutionalisation by founding partners, a case of the creation of institutional routines that may be transmitted to others. Currently the firm is not sufficiently influential in the legal fraternity to achieve transmission beyond itself of any of its practices but it represents a group of lawyers who may be so influential, in the future.
ORGANISING MODE OF A1

By interpreting the data I have laid out above then one can judge whether a firm's organising mode is coherent and which ideal type it approaches. A1's elements interpermeate each other supportively, consistently and produce an organising mode that is coherent. One can interpret these elements against the criteria for ideal types provided by Cooper, Hinings, Greenwood, Brown (1996).

Table 4.2 Elements of the Managed Professional Business and A1

<table>
<thead>
<tr>
<th>Element</th>
<th>Criteria</th>
<th>A1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interpretive scheme</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Effectiveness</td>
<td>Management</td>
<td>Intensely emphasised</td>
</tr>
<tr>
<td></td>
<td>Client service</td>
<td>Intensely emphasised</td>
</tr>
<tr>
<td></td>
<td>Competition</td>
<td>Intensely emphasised</td>
</tr>
<tr>
<td></td>
<td>Marketing and growth strategies</td>
<td>Clearly enunciated</td>
</tr>
<tr>
<td></td>
<td>Rationalisation</td>
<td>Regularly achieved</td>
</tr>
<tr>
<td></td>
<td>Productivity</td>
<td>Intensely emphasised</td>
</tr>
<tr>
<td>Efficiency</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Systems</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Strategic control</td>
<td>Rationality: moderate analytical emphasis</td>
<td>Intensely emphasised</td>
</tr>
<tr>
<td></td>
<td>Interaction: more directive decision making</td>
<td>Centralised in the person of the</td>
</tr>
<tr>
<td></td>
<td>Specificity of targets: precise financial and market targets</td>
<td>founding partner</td>
</tr>
<tr>
<td></td>
<td>Tolerance of accountability: low</td>
<td>Precise, planned and regularly</td>
</tr>
<tr>
<td></td>
<td>Time orientation: short and medium term</td>
<td>reviewed.</td>
</tr>
<tr>
<td></td>
<td>Range of involvement: medium range</td>
<td>Very low</td>
</tr>
<tr>
<td>Marketing-financial control</td>
<td>Primary focus of involvement: professional standards, quality of service,</td>
<td>Medium term</td>
</tr>
<tr>
<td></td>
<td>planning, marketing and compensation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Decentralization-centralization: more centralization</td>
<td>Medium</td>
</tr>
<tr>
<td>Operating control</td>
<td></td>
<td>All of these are integrated by quality</td>
</tr>
<tr>
<td></td>
<td></td>
<td>management and intense strategic</td>
</tr>
<tr>
<td></td>
<td></td>
<td>planning.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Centralised.</td>
</tr>
<tr>
<td>Structure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Differentiation</td>
<td>Level of specialization: medium</td>
<td>Highly specialised</td>
</tr>
<tr>
<td></td>
<td>Criteria of specialization: professional divisions and functional</td>
<td>Functional divisions</td>
</tr>
<tr>
<td></td>
<td>difference</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Use of integrative devices: medium development of hierarchy and cross</td>
<td></td>
</tr>
<tr>
<td></td>
<td>functional teams</td>
<td>Medium hierarchy cross functional</td>
</tr>
<tr>
<td></td>
<td>Use of rules and procedures: still emphasis on standards and quality</td>
<td>lawyer/administrative teams in</td>
</tr>
<tr>
<td></td>
<td>but more rules generally</td>
<td>quality process.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Very high, all processes are mapped</td>
</tr>
<tr>
<td>Integration</td>
<td></td>
<td>and procedures codified.</td>
</tr>
</tbody>
</table>

The organising mode of A1 it is very close to the ideal type of Managed Professional Business. It has adopted this position strategically and has institutionalised practices within the firm to ensure that this remains the case through time. Its principal is
attempting to influence the regional legal professional system to adopt total quality management, which he sees as the essence of management.

CASE A2

Contextual Constraints

This firm is a sole practice with one lawyer, who is its owner, and shared secretarial services of one administrative staff.

This is a Central Business District firm that specialises in environmental law and administrative local government law. The NSW Law Society has identified both these niches as growing for the industry and the community. Its principal is well known for his cases and has published on environmental law. As he puts it, "I think in a small practice, you don't adopt mission statements and practices formally, 'cause you don't talk to yourself," but his professional interests fortuitously happened to be in areas that have grown and continue to do so. This notion that professional interest is paramount and that other matters follow was a constant feature of this lawyer's conversation during research interviews.

The firm practises as part of a chambers' concept that shares overheads with three other independent lawyers. These lawyers specialise, respectively, in intellectual property, family law and insolvency. Although the interviewee intends that at some time the four practices could operate in a network fashion in which they retain identities but share marketing, business development, as well as overhead expenses, there is no apparent synergy between the practices. Their specialities do not appear to complement each other. Their technologies and administrative practices are dissimilar. The interviewee observed that technology and systems incompatibility could be resolved but seemed unrealistic, or at best limited, in his view that the firms' proximity would be sufficient to establish a chambers' practice despite their dissimilar areas of practice. He responded to the researcher's observation that these specialities could not be considered complementary,

Not complementary but they are all specialised. There is one insolvency, there is one family, there is one in intellectual property and there is me.
So they all have something to sell it seems to me as a specialisation. Now one could say, "Come to whatever the name of the chambers is". If you want a vision that is my vision.

The initial visit to this firm was made in December 1996 at which time a first stage of chambers' practice, the sharing of overheads had been established. The principal of A2 expressed a vision of moving all the practices into stage two which would involve shared technology, marketing, planning. It was August 1997 that the feedback interview was conducted. During this time no change towards this vision had occurred.

The firm is quite successful but is limited by its size. Its owner has matters that occupy him five and half to six days a week. Whilst he accepts that he is limited by his own capacity, his interests lay in the intellectual challenge of the law and he expresses a conflict between this professional interest and management which is, "always the last thing done." He recognises opportunities that could exist in his specialty for complementary, multi-disciplinary practices run on a chambers basis. However, the tone of his responses indicates an intellectual interest that is not matched with any real drive to accomplish these things. For example, when asked about such practices his use of the indefinite article, some, may be revealing

I would not have a problem it could be a way of the future for some. Maybe planners or an architectural practice. The big firms employ non-lawyers in their environmental practice.

_JG What would block you? What would be the barriers?_

No real barriers I suppose. Just one's natural contentment with where you are at the moment.

These last comments capture the essence of this business. Its principal is a fine practitioner who is often sought after as an advocate. His interests are professional and intellectual and because of his talent and specialty he is able to practise without much concern for management matters. He is aware that management could enhance his practice, make him wealthier and provide him with more flexibility. Whilst he exhibits no drive to implement such processes he expresses no objections to others doing so and recruiting him.
Notable features in this firm’s context are its size, specialities and chambers’ practice. It specialises in areas that are growing rapidly and are projected to continue growing. Its owner is content with sole practice and although he expresses a concern that he does insufficient marketing the business is busy and profitable.

JG You mention the single greatest challenge as being marketing.

Yea. Yes let me just shut my door. Uh yes it is a personal challenge. I am strong on law, I am strong on my special interests, I am strong with the clients I have got. I am just not very strong on marketing. So for me it is a challenge. Not a philosophical, purely practical answer. Marketing for me is one of those always to be done activities. It is an old fashioned view of the law.

Whilst increasing competition from larger firms which are gaining interest in environmental law is likely to be A2’s major concern in the medium term, its principal is insouciant about strategic management. The notion of chambers’ practice is one instance that does gain his attention but he has not developed this beyond a serendipitous sharing of expenses. Despite practising in a specialty that lends itself to strategic alliances with other professionals, such as engineers, architects, as well as complementing other law practices, BW makes no moves to capitalise on such opportunities.

**Provinces of Meaning**

The firm occupies small premises in the legal quarter of the central business district of Sydney. It shares a cramped reception area with the other three practices in chambers. The interviewee’s relatively spacious office is reached after turning through a tight, poorly lit corridor. The office is barely furnished with more attention to utility than to style. Its single window opens to an airshaft. The décor is, to be blunt, unpleasant and careless.

A2 is a sole practice and its principal does not differentiate the business from himself. He is intellectually interested in the law and expresses the business as an extension of his interests. This is illustrated by his comments on the way he came to specialise in growth niches.
Well. I arrived there out of personal interest. These were areas of law that I was interested in ten years ago. And the law has developed at the same time as my interest I suppose.

_JG_ So it has been serendipitous that your professional interests have been the same as the market interest?

I would say so yes. I also had an eye I what was happening. I mean when I started out with a partner I did probably forty to fifty per cent conveyancing. Well conveyancing was on the skids. We both went about identifying areas where we could practice to replace that area. 'Cause I was of the view that as a small practice to survive you have got to specialise. You have got to offer something. So I did do that exercise as well and now my conveyancing is what five per cent and indeed conveyancing has undergone a revolution.

This precisely captures the nature of the transactions in the research with this firm. The lawyer expressed an interest in managerialism providing it fitted with his professional interests. He was not dead to the needs of management, as exemplified by his review of the conveyancing aspect of his business, but whilst he talks about management he only acts when matters are urgent and in concert with intellectual interest. His professionalism drives his business. The business is not incidental but it is secondary.

**Dependencies of Power**

The firm is a sole practice with minor influence on the chambers' practice. The firm cannot be separated from its owner and operative so questions of internal circuits of power are irrelevant. He is active in matters of the NSW Law Society and does considerable *pro bono* work. These things, his publishing and his casework have gained him a reputation amongst peers. Capacity to influence the professional system circuit would seem to rely on such a capacity. His influence would be to support through demonstration rather than active advocacy of a traditional view.

When one summarises the organising mode of A2 it approaches the ideal type of Professional Partnership and seems secure in that position.
Chart 4.2 Firm A2 and all Elements

Firm A2

- Attitude to Change
- Innovation
- Systems/People Orientation
- MPB/P2 Orientation
- Financial Return Orientation
- Specialisation
- Leadership
- Strategic Planning
- Quality Management
- Marketing Focus

0 1 2 3 4 5 6 7 8 9 10
ORGANISING MODE OF A2

A2's elements inter-permeate each other supportively, consistently and produce an organising mode that is coherent. However there is no sense that this is managed strategically as in the previous case of A1. The principal is content with his professional practice and the business is sufficiently lucrative for there to be no pressing need to strategically grow though opportunities abound. While the principal enjoys the professional autonomy of sole practice he also dislikes and does not attend well to the administrative necessities of his practice. He says that he would not object working in a chambers that was more managed. The evidence is that while he will not drive this forward, he would join if another led. So there is the sense that the firm has reached equilibrium through disinterest or ennui rather than dynamism. It could be moved from this state but the energy to overcome inertia would need to come from outside the firm. This could be in terms of some environmental shock such as market change, law change, financial crisis or managerial opportunity such as alliance with another firm or multi-disciplinary practice in a chambers network.

The table that follows interprets the data of this case against the criteria for ideal types provided by Cooper, Hinings, Greenwood, Brown (1996).
Table 4.3 Elements of the Professional Partnership and A2

<table>
<thead>
<tr>
<th>Element</th>
<th>Criteria</th>
<th>A2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interpretive scheme</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Governance</td>
<td>Fusion of ownership and control. A form of representative democracy.</td>
<td>Comprehensively so.</td>
</tr>
<tr>
<td></td>
<td>Revolving managerial tasks among owners.</td>
<td>Not applicable due to size.</td>
</tr>
<tr>
<td></td>
<td>Local office as the centre of commitment.</td>
<td>Only one office.</td>
</tr>
<tr>
<td></td>
<td>Professional knowledge.</td>
<td>Intensely emphasised.</td>
</tr>
<tr>
<td></td>
<td>Peer control.</td>
<td>No peers.</td>
</tr>
<tr>
<td></td>
<td>Strong links with clients.</td>
<td>Intensely emphasised.</td>
</tr>
<tr>
<td></td>
<td>Widely distributed authority.</td>
<td>Not applicable due to size.</td>
</tr>
<tr>
<td></td>
<td>Minimum hierarchy.</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Primary task</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Systems</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Strategic control</td>
<td>Rationality: low analytical emphasis.</td>
<td>Very low.</td>
</tr>
<tr>
<td></td>
<td>Interaction: consensus decision-making.</td>
<td>Not applicable due to size.</td>
</tr>
<tr>
<td>Marketing-Financial control</td>
<td>Specificity of targets: precise financial targets.</td>
<td>Precise but short term.</td>
</tr>
<tr>
<td></td>
<td>Tolerance of accountability: high tolerance.</td>
<td>Very high.</td>
</tr>
<tr>
<td></td>
<td>Time orientation: short term</td>
<td>Short term.</td>
</tr>
<tr>
<td></td>
<td>Range of involvement: low range.</td>
<td>Not applicable due to size.</td>
</tr>
<tr>
<td></td>
<td>Primary focus of involvement: professional standards and quality of service</td>
<td>Intensely emphasised.</td>
</tr>
<tr>
<td></td>
<td>Decentralized-centralization: decentralized</td>
<td></td>
</tr>
<tr>
<td>Operating control</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Structure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Differentiation</td>
<td>Level of specialization: low</td>
<td>One practitioner only.</td>
</tr>
<tr>
<td></td>
<td>Criteria of specialization: professional divisions and personal interest.</td>
<td>Matching professional and personal</td>
</tr>
<tr>
<td></td>
<td>Use of integrative devices: low</td>
<td>interests.</td>
</tr>
<tr>
<td></td>
<td>Use of rules and procedures: generally low.</td>
<td>Low.</td>
</tr>
<tr>
<td>Integration</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

While several of the criteria do not apply to a single practitioner all others show a close match between the elements and the data. A2's organising mode closely approaches the ideal type of professional partnership.

CASE A3

Contextual constraints

This firm has a principal only plus one administrative staff.

This firm is a generalist suburban practice. It does conveyancing, property, small business, probate, wills and civil litigation. It has no strategic plan, has had declining
income over the last five years, and is extremely choosy about which clients it will take on, and enjoys the law "as it was and should be". It practises in a declining segment and has no plans to adjust circumstances. Its only marketing is the Client Care program sponsored by the NSW Law Society, partner contacts and Christmas cards. It sees its greatest challenge as attracting administrative staff and providing high quality personal service as its major opportunity. It is known for excellent small practice law by other lawyers and often does minor legal matters for other lawyers. The principal of the firm is a Councillor of the NSW Law Society. He expresses maintaining profitability as the profession's greatest challenge but cannot contribute when asked for the single greatest opportunity affecting the profession.

Much of the A3's business relates to the domestic and industrial property market. Although it operates as a generalist firm with interest in probate and commercial work it relies upon its property work as a means of entry into these other service markets. A3 relies upon the quality of its legal service and does no appreciable marketing. In this respect it is the primitive professional serving its community and expecting that its community will seek it out. Whilst this seems happenstance it is agreeable to its owner who illustrates the unexpected nature of quality work bringing rewards without promotion by the following story.

No. I just wait for it to come in and it really sort of develops from there. Here's a classic. Emma Jane Chickens probably give me about $5,000 a year worth of fees, which in a small practice is a lot of money. I got that through one of their secretaries. Because I did some little deal for one of their.... In fact, I did a little something for one of the secretary's boyfriends. She came to see me. She lives at Marrickville. The boyfriend's long gone and she subsequently got her employer to come and see me. And you know, we've now got factories, buying and selling factories, re-financing because of that first contact.

De-regulation has increased competition and forced prices down in conveyancing at the same time that there has been a long slump in the property market. A3 has not changed its practices and prices during this time and has seen its general expenses rise and revenue from property fall. It has not actively marketed other business, 'just done more of it', as its owner puts it, when asked if his traditional markets were changing.
They're not increasing at all, are they decreasing? I think, you know, we go through lulls. I had not put my mind to it until I started completing that survey form, to realise that I hadn't really increased my turnover probably in the last five or six years. Okay? I'm still doing the same amount of work, property really maybe a bit lower, probably is a bit lower. I'm probably doing a bit more work. Property is a bit low, therefore, I'm still making the same sort of money. I'm still making the same sort of dollars as I was four or five years ago. I suppose really my best year in terms of real income was probably about '86/'87.

A3's owner seems sanguine about this and speaks of the practice as immovably locked to its location, (at the fringe of an industrial area and just outside a shopping area), and its current clients.

Well bear in mind, a single practice is always going to have as its client base, families. Whereas, you know, the Allens or the Blakes, (These are mega firms.) they cater for a different market - they're acting for BHP and international banks and those sorts of organisations. And so, the sorts of things that people, individuals, deal with are those sorts of things. Now, we're I suppose, a little bit different in that our location provides opportunity for the industrial clientele which we do act for. We're acting for the property owners, the lessors, in relation to their business transactions as well, whereas if you move up into main-stream district shopping centres, you're going to tend to get only the Mums and Dads.

The firm's chief contextual constraints are its size and location. These are two issues that the principal has no intention of acting upon. He says, "I could do more work. Probably could do more work but .." and the conversation trails off. He does nonetheless discount price a lot of the matters with which he deals and whilst he speaks of being "choozy about one's clients" that choice is apparently not made on the basis of fee expectations. He does a considerable amount of pro bono publico work.

Provinces of Meaning
The firm practises from a small semi-detached Federation house in Marrickville, at the edge of the industrial area. The house has been restored to its architectural heritage and the lawyer uses the front two rooms for his very spacious office. The back room is given over to the secretary and waiting room, whilst an extension is used for kitchen, showers, files and storage. The principal's office is dimly lit, with a
large leather topped desk central and leather Chesterfield lounge to the rear of the room. The lawyer sits in a large leather backed Captain's chair and the client chairs are green brocade. Fittings are bronze with green shades. Furnishings are plush with prints of traditional legal scenes on the walls. The premises express tradition and the lawyer, with his sharply pressed shirt, silk Law Society tie, paisley braces, gold jewellery and professional courtesy fits the scene. There are no signs of business marketing such as mission plaques, histories, services brochures, within the firm.

Indeed the principal expresses a resigned disdain for those firms that do succeed through what he sees as thoughtless commercialism.

So it's um, if I could typify it as an approach to the business which is coming from the ethic of the lawyer, or the professional lawyer, that one's not necessarily chasing business, one is serving the community which is here and if one's well located and does good law, then one should get business. That's the theory. It doesn't work because I often use this quote, and I won't mention any names but, I certainly wouldn't mention any names, I've always, it's always amazed me that the practitioner who is the least knowledgeable in terms of law is the one who makes the most money. There are a couple of examples, not within this immediate geographical location, it was in the inner west and perhaps out further a bit towards the Bankstown areas and a bit further on, where practitioners really haven't got a clue about, you know, basic concepts, they've never kept up with their law, but they've always seemed to have this massive amount of clientele. They're good P.R. people.

He sees his practice as providing a service to the community and he reserves the right to be "choosy", which he rationalises as a reason not to market.

Because referrals will indicate what sort of a client they are. That will indicate whether I should take the client on. So if John Gray refers them and I've had good experiences with John Gray, I know that the person he referred is probably going to be okay. If they've been referred by the local butcher who I've never heard of, there's no point in, you know. If they say they've looked me up in the 'phone book, I always discount them as being, 'cause what they're doing is they're running around seeking a quote or a price. I hadn't thought of implementing a strategy, but I should do I suppose now. I'd be concerned to market it too heavily because I've always had that, my own view is that you don't take on every bit of work that you get, and if you market, you're then almost morally obliged to take the work that comes through the door, whereas I'd rather do it on the basis that I've been doing it now where, as I said to you before, you look
the client up and down, or the potential client up and down, if you like his hair you do the work, if you don't you get rid of him.

His only emphasis on marketing is promotion through doing the job meticulously and traditionally. For example his stationery expenses are huge because he writes to clients with copies of the letters he has sent on their behalf and he does so expensively and profusely. It is interesting that he does law for other lawyers. The principal is very active in the NSW Law Society, particularly on matters of professional service. He has a reputation as a black letter lawyer and as a fastidious expert in suburban commercial matters. He is proud of this and it may be that his skill is to be a traditional lawyer and to appear as just that to his professional colleagues.

Dependencies of Power

As a sole practitioner dependencies within the firm do not merit discussion. Within the external system integration circuit of power one finds an individual who is heavily involved with his professional association giving freely of his time and resources. Any influence he exerts would seem to be minor and supportive of traditional approaches to the practice of law.
Chart 4.3 Firm A3 and all Elements

Firm A3

- Attitude to Change
- Innovation
- Systems/People Orientation
- MPB/P2 Orientation
- Financial Return Orientation
- Specialisation
- Leadership
- Strategic Planning
- Quality Management
- Marketing Focus

0 1 2 3 4 5 6 7 8 9 10
ORGANISING MODE OF A3

In summary, A3 has adopted an organising mode that is strongly coherent. Each element supports an organising mode that emphasises professionalism. It does not seem to have done this strategically. It has more been a case of the values of the principal inevitably bringing it to this state.

Table 4.4 Elements of the Professional Partnership and A3

<table>
<thead>
<tr>
<th>Element</th>
<th>Criteria</th>
<th>A3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interpretive scheme</td>
<td>Fusion of ownership and control.</td>
<td>Comprehensively so.</td>
</tr>
<tr>
<td>Governance</td>
<td>A form of representative democracy.</td>
<td>Not applicable due to size.</td>
</tr>
<tr>
<td></td>
<td>Revolving managerial tasks among owners.</td>
<td>Not applicable due to size.</td>
</tr>
<tr>
<td></td>
<td>Local office as the centre of commitment.</td>
<td>Only one office.</td>
</tr>
<tr>
<td>Primary task</td>
<td>Professional knowledge.</td>
<td>Intensely emphasised.</td>
</tr>
<tr>
<td></td>
<td>Peer control.</td>
<td>No peers.</td>
</tr>
<tr>
<td></td>
<td>Strong links with clients.</td>
<td>Intensely emphasised.</td>
</tr>
<tr>
<td></td>
<td>Widely distributed authority.</td>
<td>Not applicable due to size.</td>
</tr>
<tr>
<td></td>
<td>Minimum hierarchy.</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Systems</td>
<td>Rationality: low analytical emphasis.</td>
<td>Very low.</td>
</tr>
<tr>
<td>Strategic control</td>
<td>Interaction: consensus decision-making.</td>
<td>Not applicable due to size.</td>
</tr>
<tr>
<td>Systems</td>
<td>Specificity of targets: precise financial targets.</td>
<td>Precise but short term.</td>
</tr>
<tr>
<td>Marketing-Financial control</td>
<td>Tolerance of accountability: high tolerance.</td>
<td>Very high.</td>
</tr>
<tr>
<td></td>
<td>Range of involvement: low range.</td>
<td>Not applicable due to size.</td>
</tr>
<tr>
<td></td>
<td>Primary focus of involvement: professional standards and quality of service</td>
<td>Intensely emphasised.</td>
</tr>
<tr>
<td></td>
<td>Decentralized-centralization: decentralized</td>
<td>Not applicable due to size.</td>
</tr>
<tr>
<td>Structure</td>
<td>Level of specialization: low</td>
<td>One practitioner only.</td>
</tr>
<tr>
<td>Differentiation</td>
<td>Criteria of specialization: professional divisions and personal interest.</td>
<td>Matching professional and personal interests.</td>
</tr>
<tr>
<td></td>
<td>Use of integrative devices: low</td>
<td>Low.</td>
</tr>
<tr>
<td>Integration</td>
<td>Use of rules and procedures: generally low.</td>
<td>Low.</td>
</tr>
</tbody>
</table>

The firm closely approaches the ideal type of professional partnership.

SOLE PRACTICES SUMMARY

Sole practices are the most exposed segment of the legal profession in NSW. They have the advantages of neither scale nor size but all of the problems of keeping up with client need, government requirements, competition from other professions or
para-professions. This segment sees most businesses created and disbanded. They are, in effect, the extreme case of micro-business in a knowledge industry. The lawyer sells knowledge services. There are so few products as such as to be ignored; therefore the principal of the business must take from the major asset of the business, his or her knowledge, to attend to management affairs. Those who succeed manage to juggle these pressures by long hours and whilst there are management systems that could assist them in this venture, in the main they do not avail themselves of them. An obvious solution to share costs and gain some advantages of size would be shared or networked practices, with other lawyers or with other professionals.  

Another obvious solution would be the use of very high technology to gain productivity improvements. Another would be the adoption of quality management systems that link the lawyer to the client and to the rest of her office and network. In the last decade, most small lawyers relied on conveyancing as a major source of revenue but de-regulation has now permitted other para-professions to enter the market. The consequent pressure on prices has led many small lawyers from conveyancing into other areas of work. Specialisation is increasingly a feature that one notes in this segment of the industry.

The three firms that were visited were diverse. One of these was a generalist whilst the other two had specialised. Two of the sample were professional partnerships in their organising mode whilst the third was decidedly and strategically a managed professional business. This third firm had adopted quality management systems and had gained accreditation. On the day of the meeting with its principal, the NSW Law Society awarded it a QIL award of excellence for quality. The other two firms used professional templates of control to ensure that their work was of high quality.

The data given by the principals of each firm in the first stratum, A, indicate clearly that firms A1 and A2 are successful economically whereas A3 is in serious decline. A1’s leverage makes it more profitable than A2 but A2 trades in a niche of law that is

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28 Shared practices are possible, under existing NSW Law Society guidelines as long as a lawyer is the principal. It is expected that these restrictive practices will be challenged and removed in the near future.

29 In sole practices the age of principals may be important. The principal of A1 is in his thirties. The principal of A2 is in his forties. The principal of A3 is in his late fifties.
growing and A1 trades in a niche that is declining. I can safely say that A1 is successful, A2 is moderately successful and A3 is in decline. A3 is an interesting case in which the analyst's judgement is taken to prevail over the subject's judgement. A3’s principal notes that his revenue and profitability has been declining for the last five years but is unwilling to change his practices to arrest this decline. He works harder, longer, for less reward but his values would be compromised if he were to be more managerial. I judge that the business is failing economically.

It is worth noting that one of the firms was strategic in its actions whilst the others were reactive if not reactionary. The differences in the firms can be illustrated by the following chart.
Chart 4.4 Firms of Sole Practitioners and all Elements

Firms of Sole Practice
FIRMS WITH TWO TO FIVE PARTNERS

CASE B1

Contextual Constraints

This firm also forms part of the second data set. It had five partners when it first agreed to participate in the research. By the time the research commenced it had grown to six partners with seven legal staff and nine administrative staff. At the time of feedback meetings, seven months later it had grown to eight partners with an external partnership offer pending; and had accepted two additional legal staff at senior levels. It had moved premises from harbourside, commercial quarter premises to a building named after the founding partners in the legal quarter of Sydney CBD.

The firm focuses upon commercial law for large corporate clients. It is a firm that is based upon the enormous talents and networks of its founding partners. "A" is a renowned legal expert whose is known for his judgment, knowledge of cases and his startlingly ferocious temper tantrums. He was a partner at one of Sydney's oldest largest corporate specialist mega firm, E1. Whilst at that firm, and previously at E2 he had built a business and personal relationship with the Chairman of one of the world's largest corporations. When he left the mega firm to establish this partnership, the Chairman's business followed him, as it did when he left E2 to go to E3. The other founding partner who gives his name to the firm was extremely influential in the Australian Securities Commission when the federal law and legal apparatus which now dominates this nation's business affairs was first drafted. He had been recruited by the national government, to this position from his role at E1 where he too was a partner. He is renowned in legal circles for his capacity for hard work, knowledge of law, knowledge of the bureaucracy and network of appointments to directorships of companies. A third founding partner, T, also came from E1. He was to adopt the role of administrative head of the firm as the firm does not have a managing partner, though as H says, "T always imagined he was management partner so we never disabused him of it. He looks after administration, we run the place."

The firm's involvement with the Chairman made it the legal adviser to Superleague and subsequently embroiled in the most publicised corporate raid and legal case in
Australian history. This was to see one of its partners, T, with no interest in the sport and little knowledge of it, negotiating contracts with Rugby League players. Indeed, almost all the considerable talents of the firm were cast into the commercial and legal manoeuvres that commenced a year prior to this research and still continues as this is written. The case involved establishing a breakaway Rugby League competition in Australia, New Zealand, France and Great Britain chiefly as a means of controlling sports product in order to move it into the sphere pay (satellite or cable) television from ‘free to air’. Opposed to this move, in Australia, were, the Australian Rugby League, (ARL), which had controlled the sport since 1908; Optus Communication, which had signed a pay television contract with the ARL for the next decade; and PBL, which had signed a contract for free-to-air television coverage of the sport for the next decade. PBL is majority owned by Kerry Packer, Australia’s wealthiest man, now that Rupert Murdoch has taken USA citizenship. He also majority owns Australia’s major television network. The media portrayed the case as a battle between Kerry Packer and Rupert Murdoch, which whilst technically inaccurate, provided very good headlines. News Corporation used B1 as its legal adviser. Its opponents used E1.

This case has dominated the firm’s activities since 1995 and has raised its profile in the legal and commercial community. The matter is hugely complex and has consumed enormous resources that have seen the firm as a corporate counsel to Superleague. Operating as a separate entity under News Corporation control, Superleague was aided by B1 as it surreptitiously and rapidly set up infrastructure, contracted players, coaches, referees, established clubs, moved billions of dollars, litigated at Supreme Court and High Court. News Corporation expenses in the matter are said by its representatives to be $300 million, whilst their opponents cite their own expenses as $200 million. Whilst A’s association with the Chairman made his firm’s appointment initially unsurprising to most, its continuing carriage of the matter impressed the profession. As H was to say, "E1 can throw fifteen lawyers at a matter and not blink. We are not fifteen for all matters."

This case is central to the context of B1. It is known and admired in the legal community as a tough, no nonsense, business-like, ethical firm that ‘plays for keeps’. It uses its size, immense talents and access to funds, in corporate manoeuvres that are
the stuff of novels. Much of this interpretation comes from their involvement in this famous matter. This is not to say the firm changed in this matter but it is to say that it became better known, better tested in its capacity, and better funded. As H was to say, "This is the most lucrative practice in which I have ever been involved." A visible expression of this is their current premises, a building which is named after the firm in Sydney's legal quarter diagonally opposite the ARL.

This firm can be summarised as a boutique firm tightly focussed on 'top end' corporate law with two megastars and a second string of stars who are held in very high esteem, if not quite megastars. To use a phrase from David Maister (1997) the firm is composed of 'big hitters'. These are the type of lawyers who were typified by HG, one of the partners of this firm as,

See, there is a different level to them, they are very, very bright and sought-after lawyers who can just look at their diary and name the price and the clients will pay. You know, those mere mortals amongst us are subject to greater accountability to the client.

B1 was established in 1994, grew steadily and continues to do so. It operates in an unstructured way, "like a seventeenth century corporation" of professionals getting on with matters (H), and has attracted to it senior staff from other very structured firms. It sees its size, market recognition and operation as a professional partnership as a competitive advantage in the corporate area that it has focussed. This is exemplified by its ability to recruit at the top level. Its newest partners were managing partners of other firms. Its newest senior associate was offered partner at one of the Big Nine but refused so that she could join, "this very interesting firm". It is able to do very complex matters and is referred matters by the biggest law firms who do not see B1 as a competitive threat. As H put it,

Look, there is obviously occasions when some person takes this very good matter to this firm rather than that firm and then in the sense, they're competing, but as to the active market place, it's a market place that reinforces itself and it supports firms like us because the bigger firms generate conflicts of interest. And so what the bigger firms want to do is to send big clients to not another big law firm because as soon as they

30 The building name sign is in letters about 2 metres tall at awning level and is seen as an ostentatious display of the firm's talent.
send it to another big law firm, they run the risk of losing the wider business, whereas if they send a big client to a little firm like us who can do the job, then they're not going to lose the client.

When H was first interviewed he commenced by establishing the context of the firm. He personalised it to his own experience but spoke of the firm’s context.

Um, I start with the comment that my experience is very narrow. I have never in my whole life practised on a broad range of legal matters. I've only opened the Family Law Act once in my whole life and that was to find out the cross reference to the corporations law, so when I talk about the profession, I'm talking about a part of the profession that is very, very small. I mean, I would expect that the active practitioners in it, if they amounted across Australia to more than about three hundred, I'd be surprised. So having said that, um, and without any particular structure, I will say three things, I think. The first thing is that the practice of corporate commercial law is now very international. That plainly has accelerated in the last five years, although to put it in context, I would say that that's a trend that has been going for the last fifteen years with a pace on it. That means that the number of legal matters that an Australian firm works on with another firm . . . we work with a lot of Swiss firms, U.S., English, the number of matters as a proportion of all matters is increasing. That's the first thing I say. The second thing I say is that the proportion of easy work to hard work is diminishing. There used to be a time in my lifetime to practise law, where you did everything. You know, you incorporated articles, ah, you incorporated companies, you did the minutes of the Board meeting, you did the executives' employment agreement, which are pretty mechanical, easy work, that is, flow work. That sort of work has just substantially diminished in the private practice of law, probably because of the growth of in-house counsellors, that's probably the most direct cause, partly because of the increased technology of accounting firms. So the sort of work a corporate commercial law firm does has got proportionately harder. The third thing I say, well before I leave the second thing, I should say that has consequences. I mean, it has a consequence on the fees because the harder it is, the more research a matter takes, the more opinions you need to write, the more esoteric issues arise and, of course, that's accounted for in fees. So a typical matter, if there is such a thing as a typical matter, coming to a commercial law firm these days will cost more. The third thing that has happened in the practice of corporate law particularly, is it has become very much more litigious. Now I don't know whether it's the last five years or I'm talking about the whole of my life, I leave it for you to judge, but plainly it is impossible to run this sort of firm without a significant litigation capacity - something we found very early when we started without a litigation capacity and very quickly had to move to one.

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31 This is a feature of the language of several of the lawyers interviewed. They tend not to differentiate between themselves and their business as an industrial firm's owner might. One notices this form of language in the cases where organising modes approach P2.
So, those are all three things that are on my mind. I'm sure other things will occur to me, but they don't immediately slap me in the face.

This can be summarised to, first B1 is tightly focussed on 'top end' complex difficult corporate law, a niche in which few practise; second this type of matter has become globalised and opened 'flow work' to accounting firms; third the legal industry has become more litigious. The firm has grown into this niche because of the expertise of its major players. It operates consciously as a professional partnership and prides itself on its informality, respect of legal traditions and open governance.

The firm's Managing Partner, T, is supported by an Accountant who is ex-Coopers and Lybrand. Whilst H tends to deprecate the value of such work it is known that B1 operates relatively efficiently.

No, that's fine with me. T elected himself as the day-to-day management Partner. I don't have the slightest idea what he actually does, but I know he constantly looks at the bank balance and constantly looks at the accounts and constantly looks at the, you know, how many pens we're ordering and his secretary orders the Christmas cards and all that, which I say with the greatest respect to Managing Partners of large law firms of which Phillip King is one, is a very easy chair to occupy in large firms.\(^{22}\)

The firm operates without hierarchy. Partners lunch together most days and have drinks in the evening prior to leaving the office when they can. There are no formal partners' meetings. H offers the following on strategy.

Ah, the major decisions, and by major decisions I would say a decision as to where to locate the practice, a decision as to who to employ in the practice, a decision as to whether to invite anyone else to be a partner in the practice, would always be taken by A and myself and the others. And myself, I think sort of running a philosophical issue about a lot of it, usually in opposite directions, I have to say, we're never, well, we are rarely as one. And everyone else chiming in. We don't have formal Partnership meetings, never have, but we do a lot of after hours drinking around this table and we have quite a few lunches. So it's a more organically and hands-on run organisation than almost any large firm. I

\(^{22}\) Philip King had been the Managing Partner at E1 when H last practised there. H had joked earlier about having King's memoranda bound. King was present when this exchange took place so there was a certain amount of tongue-in-cheek humour as well as projection that H seems to enjoy of the maverick genius who achieves and is unmanageable.
mean, there's, there'd be a meeting about something, usually over a glass of wine or a beer, at least every day.

Well, its not, yes you can call it a strategy, but it's more of we know nothing else. I think we fell into it. So that's always been our life. So, yes. I mean, I think if we had a strategy, if we were to articulate a strategy, or more precisely if I were to articulate a strategy, it would be this - stay narrow, that is, corporate commercial, with emphasis on corporate, but do as much work in the field as you can on as wide a base as you can so as to provide a base, both a revenue base and an experience base to grow the firm, with the partners such as myself and A, in particular, who want to do so, having the ability to pick and choose what they do. If I was to articulate my own strategy, it would be that. So I don't particularly, for example, I would never, I would never knock back prospectus work, for example, because there are lots of people around here can do it, but I'd never do it myself. I couldn't think of anything more boring.

The external context of the firm is equally interesting and different than all 'top end' commercial firms that the researcher knows. The megastars in the firm have very wide influence but the second rung of this firm would be seen, and have been, first rung in almost any other firm. This provides the firm with a cachet and network that it uses efficiently. It has defined its market and is content to grow if opportunity, such as talented lawyers becoming available, arise, but it does recognise that its context means that,

there must be limits and the limits are obviously driven by the relatively small amount of legal work in this area, relative to the whole legal services market and the size of the Australian economy. Now, within the Australian economy we have been seeing certain trends. I mean, first of all, you see a trend away from all the smaller States to Melbourne and Sydney and Brisbane and then you start to see a trend away from Melbourne, at least, to Sydney and Brisbane and I think that's helped us as well.

Provinces of meaning

Values are explicit in this firm. Its partners are very clear that the firm should operate as a traditional legal practice. There is no illusion that the named founders are most important in this, nor that they had explicitly decided that this should be so. Now, three years after foundation, they reflect on what has happened and now espouse

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33 As B1 has recently recruited the ex-managing partner of one of the Big Six's Brisbane office, the unexpected inclusion of Brisbane may be revealing.
what has evolved. H sees it as an *ex post facto* strategic competitive advantage. Lawyers are attracted to the firm by its megastars and their style, which is in effect the culture of the firm.

"A" is a unique personality in the culture. He has, the culture A treasures the most is first, second, third up to fifteenth is legal excellence. That is legal excellence over service, legal excellence over friendship, legal excellence over almost any other issue. But that is, that sounds like a motherhood objective, but it's almost a monastic objective. You know, if you're actually practising law with people who are clients who are trying to achieve a commercial result, an objective of legal excellence is almost always counter-cultural. I don't have that objective, although I'd like to get the answers right, I will never get the answers as right as A does, never, because that isn't a culture I want. But I'm right enough and often enough times to at least have a grudging respect from A and I admire him for his contribution. My culture is more um, personal relationships with clients and getting the final objective through in the best way possible so that the client actually comes back. Now the problem with that objective is that the client puts you in the same category as every other big law firm 'cause that's their culture, except when they're really in a jam they'll come back to A, because A abuses the hell out of them but they know they end up with the right result. Those are the two cultures that dominate the firm. As for the rest of it - as I see it - as for the rest of it, I don't know, I don't know the culture of everyone else. I just like a friendly work environment where people get along and people don't get in each other's way.

It is notable that H talks about cultures of the firm in terms of individuals, rather than a culture of the firm, "I don't know the culture of everyone else." This is consistent with expressions of all those interviewed in this firm who talk about the firm as if it were a confederation. The notion of individual practice is central to B1's provinces of meaning. He denies that the firm is a confederation and refers to the partnership of the firm as consistent with traditional views of Common Law corporations.

Oh no way. I see a corporation in the common law sense, namely the sense of a group of individuals who have invested for a common return, but in the purpose, between the investment and the common return they tend to do their own thing. It's very much the seventeenth century idea of the corporation.

This phrase, "a seventeenth century idea of the corporation", is central to understanding this firm. More than this, I shall argue in chapter seven that it is central to understanding a significant way that some professional firms differ from
industrial firms, determine strategy and manage change. B1 has been able to recruit excellent partners from other firms because it is unstructured.

JG They've come to this law firm which is known for its excellence in the practice of law and I put two and two together, and maybe I'm getting five, and the five I'm getting is that these lawyers may wish to be involved in a firm which isn't as structured and it isn't as systematic as the BDW's or the Sinclair, Ayers, Wilkie 34.

Ayers is very structured because it's Arthur Andersen, but I put it to you this way, when I became a Partner of E1, which is in the late '70's, I'd been, you know, government positions throughout most of the '70's, one way or another. When I became a Partner in the very late '70's I thought E1 was the most wonderful place I'd ever worked in. Everyone had individual freedoms, everyone had professionally excellent goals, it was closely knit and supportive, yet you can do anything you wanted to do as later demonstrated by "Pw" 35. E1 when I went back to it in 1990s, January 1993, after my stint at the A.S.C., was as bad as any government organisation that I had been a subordinate in. You know, I'm not talking about a position of being Chairman, I'm talking about just a worker. And it was a moment that frankly, I didn't like.

H believes that this is a predominant value amongst lawyers and says,

There are some lawyers that are in a big firm or a small firm, I see as having a reasonably isolated and individualistic view of what they're doing. I mean, I don't think they go into their office and think, god, I'm a terribly important cog in a big wheel. I think they go in and say, well, what of my client matters do I have to deal with today? And the emphasis being on the word "my".

JG As I mentioned several times in this interview, I'm not a lawyer, but that's not always the impression I get at large firms.

Isn't it? No, well, that's very interesting because I think that's a very distinct move in the wrong direction, if that's not the culture.

JG And certainly my experience is along with yours. The North American literature talks about a move also in Canada and the U.S.A. towards much more of a corporatist approach to doing law, not forgetting one's professional ethics, but moving much more towards business planning and strategies, making it much more like accountancy, consultancy work.

34 The researcher chose these firms as B1 had recently recruited ex managing partners from both firms.
35 This partner of E1 embezzled $6 million from the firm's trust account of a South Pacific Commodities Company.
Do you find that soul destroying? I find that soul destroying. I wouldn't imagine in my own life to practise in such a place. I mean, it sounds stupid to say that, but practising law for me is a lifestyle choice, I mean, as well as paying the groceries, it is a lifestyle choice and if I'm making a lifestyle choice, it is a choice that's going to suit my comfort zones and my demand for freedom. And strategy, structuring, those things are always going to be antithetical.

*JG Right. So the Partnership structure is a perfectly appropriate type of structure to operate within?*

Exactly what I want.

Another partner, HG talks about the culture of the firm and identifies exactly these points that H made.

I think it arises from the souls of the firm, the personalities of the individual partners. Um, one of the major reasons I left Eyers, Wilkie was a belief that what I did and how well I did it mattered not a tinker's damn to the people who were controlling the firm and, in fact, they had no idea what I did. There was a focus on, a supposed focus on striving for excellence, but that meant translating to the bottom line - did not actually mean excellence in the work you did and the level at which you practised. Coming from that to here has been the most extraordinary buzz. It's just fun. So the atmosphere as a firm, I mean, I don't know that we have a, I came from an Arthur Andersen imposed culture which was very American, very structured, I mean, structured to a degree that was just unacceptable to me, I just ... you know, bit of a rebel. Well, not really, because I've been in a structured environment in one form or another most of my life, but it was just far too much structuring for me. To something here that's certainly unstructured. There's no culturing imposition; it's just a group of people who bounce off one another. Andersens is very structured and so within a very structured organisation where effectively the partners are not partners, they are employees, it is very difficult, it's probably easier for somebody to go from being an employee to being a partner in an organisation like Arthur Andersen where they've grown up with that structure and direction and where you really as a partner have no input into what's going on. I find that unacceptable.

The firm's accountant, who had worked for Coopers Lybrand, a tightly structured accountancy firm with legal capacity, talks similarly about B1 in response to comments about symbols in the Boardroom.
JG I notice in the corner of the room here we've got Rupert and Kerry in papier-mâché. Are any things about the firm in its current existence, which are symbols that talk about successes?

Kerry's smiling too much for me to comment on ..........

JG He does have his hand in Rupert's pocket...

I shouldn't comment much about that. I don't see conspicuous symbols and I don't think the Partners need them. E1 and the others need their prestigious building and their name outside and their name constantly in the papers. The way I see it, because of the nature of the partners, you see a lot about A and H in the papers anyway and the firm, the work the firm does. I suppose in the longer run, yes, you've got to have our name in the papers continually, but at the moment with the work that's been done, that happens automatically. I see us as trying to have the advantages of the big and small firms, as far as you can. The quality of the work we get and the quality of the work we do is obviously the drawcard. At the same time, it's a small firm and everyone sees everyone else when you go down to the corridor, everyone's on first name terms. Quite often on Friday nights we'll get round for drinks. I don't think it's possible in an environment like this to have a deep, personal dislike for someone - it's just too small a place, whereas you can in the big firms. Also, the partners, the four original partners, came at the same time. It was their choice, so there's obviously a closer, much close knit association there than in the big firms where, according to what I read, some of the parties don't like each other.

Dependencies of Power

The firm has its named partners and biggest hitters, thoroughly in control. The firm is built around them. Both have very forthright views and H, as shown in the previous quotes talks of decisions within the firm as emanating from these two who choose what work they will do, decide matters and then involve the others. Other partners accept this and see the interests of all partners served.

I mean, the two name partners in the firm have pretty significant reputations and the other two founding partners, M and T have also pretty resounding reputations within their own field. And that carries with it, it's a pretty unusual sort of situation. The names are there like a beacon really and it just simply attracts the work. Also, could I add that A has got particular skill with the media and he will frequently, you will hear him, you will see him frequently doing the CBD every couple of weeks, major articles every six months, so that in itself is a sort of one man marketing campaign.
One can trace the power through three circuits. The first circuit has to do with resources and the establishment of dependencies through them. This does not seem a particularly important circuit within this firm. All partners are successful and bring enormous business. Whilst two of these are more successful than others the firm is remarkably lucrative and resources are freely available. The social integration circuit is dominated by A&H. They make much of the notion that all others accept that the firm is to be unstructured and operate in an organising mode close to professional partnerships. They also carefully choose the talent that joins them and recognise that some within the firm have managed, have established very structured firms. The founding partner of Eyers, Sinclair, Wilkie joined the firm as a consultant at the same time as HG joined as a partner. He has not been offered partnership. His tight managerial tendencies may explain this for his contribution to the firm is significant. Within the systems circuit this is an extremely influential firm due to its reputation and networks. It is socially innovative in the ways of a radical conservative. Whilst most, if not all, firms that focus on 'top end' corporate market are large and managerialist this firm is small and professionalist. There is at least one other firm in the sample that is similar and these data may indicate potential transmission of socially innovative practices in the systems integration circuit of power of the NSW legal industry.
Chart 4.5 Firm B1 and all Elements

Chart showing the scores of various elements for Firm B1.
ORGANISING MODE OF B1

This firm has strategically evolved into an organising mode that tends towards the professional partnership. It is values driven and has the talent, resources, and network connections to be different than firms that focus on corporate commercial law. It has a clear strategy that emanates from the reputations of its extremely talented principals. It is a boutique firm in corporate commercial business market that is dominated by large firms and it uses its size and status to attract business.

Table 4.5 Elements of the Professional Partnership and B1

<table>
<thead>
<tr>
<th>Element</th>
<th>Criteria</th>
<th>B1</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Interpretive scheme</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Governance</td>
<td>Fusion of ownership and control.</td>
<td>Comprehensively so for equity partners.</td>
</tr>
<tr>
<td></td>
<td>A form of representative democracy.</td>
<td>Yes but dominated by founding name partners</td>
</tr>
<tr>
<td></td>
<td>Revolving managerial tasks among owners.</td>
<td>No.</td>
</tr>
<tr>
<td></td>
<td>Local office as the centre of commitment.</td>
<td>Only one office.</td>
</tr>
<tr>
<td></td>
<td>Professional knowledge.</td>
<td>Intensely emphasised.</td>
</tr>
<tr>
<td></td>
<td>Peer control.</td>
<td>Intensely emphasised.</td>
</tr>
<tr>
<td></td>
<td>Strong links with clients.</td>
<td>Intensely emphasised.</td>
</tr>
<tr>
<td>Primary task</td>
<td>Widely distributed authority.</td>
<td>Yes.</td>
</tr>
<tr>
<td></td>
<td>Minimum hierarchy.</td>
<td>Hardly any.</td>
</tr>
<tr>
<td><strong>Systems</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Strategic control</td>
<td>Rationality: low analytical emphasis.</td>
<td>Very low in terms of systems.</td>
</tr>
<tr>
<td></td>
<td>Interaction: consensus decision-making.</td>
<td>Consensus that recognises dominance of name partners.</td>
</tr>
<tr>
<td>Marketing-Financial control</td>
<td>Specificity of targets: precise financial targets.</td>
<td>Precise.</td>
</tr>
<tr>
<td></td>
<td>Tolerance of accountability: high tolerance.</td>
<td>Very high.</td>
</tr>
<tr>
<td>Operating control</td>
<td>Time orientation: short term</td>
<td>Short term.</td>
</tr>
<tr>
<td></td>
<td>Range of involvement: low range.</td>
<td>Low.</td>
</tr>
<tr>
<td></td>
<td>Primary focus of involvement: professional standards and quality of service</td>
<td>Intensely emphasised.</td>
</tr>
<tr>
<td></td>
<td>Decentralized-centralization:</td>
<td>Not applicable due to size.</td>
</tr>
<tr>
<td></td>
<td>decentralized</td>
<td></td>
</tr>
<tr>
<td><strong>Structure</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Differentiation</td>
<td>Level of specialization: low</td>
<td>Low.</td>
</tr>
<tr>
<td></td>
<td>Criteria of specialization: professional divisions and personal interest.</td>
<td>Matching professional and personal interests for partners.</td>
</tr>
<tr>
<td>Integration</td>
<td>Use of integrative devices: low</td>
<td>Low.</td>
</tr>
<tr>
<td></td>
<td>Use of rules and procedures: generally low.</td>
<td>Low.</td>
</tr>
</tbody>
</table>

B1 has a coherent organising mode that tends closely towards professional partnership.
CASE B2

Contextual Constraints

This is a firm with four partners, two legal staff and four partners that practises as a generalist in Liverpool, an outer Western Sydney suburb. The firm was formed in 1985 by merging two firms with six partners and twelve employed solicitors. It decided not to replace partners and lawyers as they left the firm. It has now reduced to four partners, each of whom specialises, so that, in combination, they cover all the traditional areas of suburban practice and two employed lawyers, one of whom is part time.

The practice concentrates on a community focus. Its partners agree on areas in which they will involve themselves and attempt to serve their community as well as their business. They see this as good business that also acquits the traditional community service duty of the legal profession. Its Managing Partner expresses this, as a form of marketing.

The Business Award, that's to keep faith with the Council and the local business community. We advertise only in journals, not in the local press, and we, when we're about to do a new brochure we distribute our, the remains of our old brochure around to the business houses at Liverpool, and the partners, we sort of allocate ourselves to some activity like Rotary or Chamber of Commerce and something else. But that's how, that's the extent of our marketing.

There are 24 practices in Liverpool. Some of these specialise but most are generalists. Whilst B2 is a generalist it is larger than most others in the city are and gains some competitive advantages due to its long establishment, involvement in the community, and partner specialisation. Its managing partner who established most of the systems of the firm chiefly guides the firm.

Yes. Yes, that's changed a little bit over the years, but we do that. We had a risk management course last year which we, I think we all did, all the partners did, and I don't think I learnt anything new out of it, but I think looking back over the twenty years since I've been in the profession, there is probably better risk management now than they was twenty years ago. That mightn't say much, but I don't think there was any concept of risk management twenty years ago when I came into the
profession. And I came out of the public service environment and I'd been eleven years in the public service, so I guess I automatically adopted clerical, administrative procedures to my work and that eventually stamped them on whatever I could get away with, with the other people...

The firm divides by partners into specialist functions and has a very low gearing. It conducts weekly partner meetings at which most matters are raised. The managing partner recognises that partnerships must remain informed and sees the collegiate system as quite workable in a small firm. Through his leadership, partners have completed the QIL program and see that this gains B2 some advantage. Nonetheless, they have ameliorated QIL so that it fits the traditional style of the firm.

And the only one nearest to us is Michael Noyce's firm at Parramatta which got the award at the Quality night and the only other firm that got it was Clayton Utz, so that that's, you know, things are moving and we see, or certainly I see quality and I'm pretty sure R sees quality as a thing which is a marketing benefit because we can say to potential clients well, look, this is our thing. And we have already introduced certain, well, it was certainly on before QIL came along as a course that we were doing. Things like client questionnaires of completed matters. We randomly selected things, sent out return envelopes, got the replies back in and we spent partners' meetings going through the replies.

So that, you could say yes, it's a traditional law firm and that's a pretty good thing to say that it provides good, solid advice and acts in the best interests of their clients and doesn't charge them an arm and a leg. Because that's the other important thing because we believe that our firm can provide most, if not all of the advice that you would get in the city firm at a more moderate price and we have had significant benefits from the fact that we do provide that advice and we do provide the service and, therefore, people would come to us rather than going the distance into the city and being charged possibly two or three times what we charge, you know, in an air conditioned tower block.

**Provinces of Meaning**

The firm is located in a large, old two-storey office building in Liverpool's old shopping centre. It is furnished in timber panelling with counters and brochures concerning the firm's long establishment, partners and services. All the décor of the firm expresses tradition in a rather shop soiled regional way. Partners and staff of the firm emphasise the firm's interconnection with its community, its traditionalism and its emphasis on partners doing the work. Its managing partner so revere
professionalism that he would, as he puts it, work in a petrol station rather than abandon it.

Well, the challenge is to provide the same service at a cost that allows some sort of profit and I suppose on the other side of it is, challenge to keep providing a service, although we've always taken the view that's the way you go. And we've often said in conclusion of an analysis like that, well, we would rather keep providing the service that we know is of high professional standard and if it gets to the point where that's not profitable, for whatever reason, then we'd rather work in a petrol station pumping petrol than to drop the service. It just wouldn't be acceptable. So the challenge is going to be, to keep the service going and still provide it at a cost that makes a profit.

JG I'd see that as problematic. With partner involvement, low gearing, increasing competition, it really is getting quite a challenge, isn't it?

Well, if you take the view that the low gearing assists us to provide a high standard, higher standard, then it's not so bad, provided we're all confident in each other's ability to provide that service. The challenge, I think, is whether the profession as a whole can be perceived as providing a service and whether the market will continue to be there. The premise of that is, this is my view, always been my view, as long as I can remember, probably my upbringing, that if you're providing a service, you'll find a way. In other words, if you're meeting a need, things will work out if you adopt a sensible and practical approach to providing that service. I'm talking about economic circumstances and then if you believe in that, the only thing that can foil you is if you get unreasonable pressures on the cost. In other words, if other industries push your labour costs up to a point where you can't afford it any more compared to the competitor or the profession is so perceived as not being able to provide that cost and the market itself disappears or goes off to another profession. They're the challenges. They're the things outside our control.

This captures the spirit of this partnership. It is not dead to market pressures but takes no strategic action to scan them and review its way of practice and is firm in its traditional ways.

Dependencies of Power
The firm is collegiately run with the managing partner operating as primo inter pares. Whilst day to day activities are allocated to the managing partner all matters are discussed at weekly partner meetings. The partners are content with the managing
partner and there have been no major rebuffs of his decisions at partner meetings. Because of its traditional basis, collegiality descends to very minor matters.

It's a continual tension in the Managing Partner wanting to run a firm where he's never allowed the full authority to do what a normal chief executive officer of any organisation would be allowed to do, because he's not, he's never going to be authorised, unless it's a very big firm and the only way he can do it is to work for like, thirty or more partners, he's never going to be authorised to do anything because in a small partnership they're always going to know what's going on and they're never going to say, you can do anything you like. And there's always that tension there between what's good management and what the partners want to indulge themselves in.

The Managing Partner conducts a very busy practice that contributes large fees to the firm but also manages the firm's affairs. He has delegation to commit resources of the firm but refers most matters to partners' meeting for ratification. These meetings are held tightly minuted. Typically the Managing Partner presents a business paper on major matters and lists matters for ratification. The partners are sanguine with the firm's current capacity and wish to practise in a traditional way. The Managing Partner shares this view which socially integrates the firm. B2 is influential in its small city but has little influence within the broader legal community.
Chart 4.6 Firm B2 and all Elements
Organising mode of B2

This firm has a coherent organising mode that approaches the professional partnership ideal type. It adopts this mode by empowering its Managing Partner to administer the firm but requiring him to report to weekly partner meetings. He is deeply committed to collegial relations in the partnership and has the skills and energy to administer the firm in this fashion. The firm however is not strategic and most of its process is reactive.

**Table 4.6 Elements of the Professional Partnership and B2**

<table>
<thead>
<tr>
<th>Element</th>
<th>Criteria</th>
<th>B2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interpretive scheme Governance</td>
<td>Fusion of ownership and control. A form of representative democracy.</td>
<td>Comprehensively so. Exactly.</td>
</tr>
<tr>
<td></td>
<td>Revolving managerial tasks among owners.</td>
<td>No.</td>
</tr>
<tr>
<td></td>
<td>Local office as the centre of commitment.</td>
<td>Only one office.</td>
</tr>
<tr>
<td>Primary task</td>
<td>Professional knowledge. Peer control.</td>
<td>Intensely emphasised.</td>
</tr>
<tr>
<td>Systems</td>
<td>Rationality: low analytical emphasis.</td>
<td>Very low in terms of systems.</td>
</tr>
<tr>
<td>Strategic control</td>
<td>Interaction: consensus decision-making.</td>
<td>Exactly</td>
</tr>
<tr>
<td>Marketing-Financial control</td>
<td>Specificity of targets: precise financial targets.</td>
<td>Precise.</td>
</tr>
<tr>
<td></td>
<td>Tolerance of accountability: high tolerance.</td>
<td>Very high.</td>
</tr>
<tr>
<td>Operating control</td>
<td>Primary focus of involvement: professional standards and quality of service</td>
<td>Intensely emphasised.</td>
</tr>
<tr>
<td></td>
<td>Decentralized-centralization: decentralized</td>
<td>Not applicable due to size.</td>
</tr>
<tr>
<td>Structure</td>
<td>Level of specialization: low Criteria of specialization: professional divisions and personal interest.</td>
<td>Medium. Matching professional and personal interests for partners.</td>
</tr>
<tr>
<td>Integration</td>
<td></td>
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</tbody>
</table>
CASE B3

Contextual Constraints

This firm has three partners, two employed solicitors and seven administrative staff. One of the solicitors, a son of a partner, will leave the firm very shortly to operate as a barrister. It is not intended to replace him. It operates in Liverpool, an outer Western Sydney suburb, and specialises in finance matters, property development and family law. Two of its partners have very strong connections with Serbian and Italian communities. This is significant, as Liverpool is within a region that has the highest concentration of non-English speaking background people in Australia and such ethnic connections generate business. The third partner is deputy Mayor on a Western Sydney City Council, also a source of network opportunities.

The firm has used its close connections with these communities to involve itself with large property developments in the region such as shopping centres, housing estates, industrial developments.

And I've been on the Board of the Bonnyrigg White Eagles Soccer Club, or had been for a period of eight years and the Serbian Centre for about eighteen months, so I mean, I'm no longer on those Boards but I still do a lot of voluntary work for them, so that's, you know, one method of getting into that community and doing work and getting known.

It has developed an expertise in arranging finance and an understanding of the financial markets that makes it invaluable to property development entrepreneurs. Although officially it does not have a managing partner, S brings most business, is a very forceful individual, and gets his way more often than not. Indeed the interviews with two of the partners reveal that this hegemony does not go unremarked, unresented or unrespected. As M, one of the partners remarks,

Whereas, you know, and we're often critical of each other, you know, I say to S for some of the advice he gives he should be charging like a merchant banker not like a lawyer. You know what I mean? Because he does a lot of heavyweight, commercial, industrial sort of matters involving millions of dollars and really, you know, he should be charging like a merchant banker. Well, it's like, you know, what I think might be important is not important to S. For example, the example I gave you earlier about getting a matter list, seeing what matters are still on the list,
using as a management tool and getting old matters off the list, you know, to clean up the computer system, get the computer system cleaned up. Now, you know, when I first went to S and said, look, there's a great number of matters that you've got on your list which really need to be cleaned up, you know, I got the similar sort of reaction. But then, he saw me cleaning up my lists and he saw me getting F's list cleaned up, we're getting I's list cleaned up and then he starts doing it, you know, so it's a bit of osmosis. Yeah. Well let me put it this way. I think that a lot of those things that I spoke about, some of those things I spoke about five years ago, he was very opposed to it. You know, if you're going to get engaged in that bullshit, you can do it in your own time. You know, it was really violent sort of. But then, it's like developing this pamphlet and even getting those sorts of statements in it.

The firm has been affected by the decline in the Sydney property market from 1989 to 1996. Nonetheless its expertise was so heavily wedded to these areas that it continued in property, re-financing, advising developers on commercial matters, and moving finances in equity markets. At the same time it re-developed its Family Law Practice and discontinued its personal injury practice. The Sydney property market recovered in 1996 and in central Sydney was booming in 1997. Sydney's property market has a history that emphasises outer lying suburbs moving out of recession more slowly than the inner city and remaining prosperous for shorter periods.

Oh look, we, particularly with commercial and industrial property, there's been, it's not uncommon to see a property that was valued at 1.8 now valued at 1.3. You know, 1989 it was $1.8 million, now it's $1.3, so. Yes, yes. I often think that the '88, '89 boom, for want of a better word, I think it probably lasted about five or six weeks in 1988, didn't get to Liverpool and there's some evidence of that in the family law matters where you're seeing people who in 1987 bought a house for $130,000 and in 1996 it's now worth $135,000.

The firm is constrained by its geographical placement and the depressed economic climate that this region has experienced. Nonetheless it has continued to trade profitably, through emphasis in areas of law that few other solicitors in Liverpool can tackle. It has used its strong ethnic community network to capture most of the large corporate and industrial work of the region that has to do with property development. One of its partners, S, captures most of this business whilst the other two operate as litigators for him, solicitors in family law, decreasingly in personal injury matters and in more general matters of conveyancing and probate. It can be typified as a firm with one big hitter, S, who attracts peripheral work, with two partners who operate in
practices made sufficient by S. Liverpool has 24 legal practices and there is a sense of cooperation amongst many of these that B marks.

Look, the legal profession in Liverpool, I think, is pretty wonderful. You know, if you rang one of your competitors and said, how do you do this? They'd give you an answer. Whereas if you went to Campbelltown, they'd want to cut your throat. You know, that's how, there seems to be a culture at Campbelltown that's different.

The firm does not have formal partner meetings. It does not have a strategic plan and its partners are opposed to any form of corporatising. They say they have become more managed since they introduced the third partner but by comparison with other firms they still operate on extremely flexible lines.

Um, well, he has his own following of clients for a start, so that's assisted, and a lot of the people he knows tend to be members of the, younger members of the Italian community and a lot of them are business type people, so that's assisted. Um, as to the way we operate, I think it's very easy for two Partners to say, we'll make a drawing or we'll do this. With a third Partner we've had to be, not to use the firm as just our own open cheque book where you can draw cheques, it's had to be run with a greater degree of financial responsibility so that you really don't just draw willy-nilly and extend the overdraft.

S is quite content with the firm operating in a non-managerial fashion. He was quite opposed to the introduction of any quality management system, and whilst he has given way on that issue, talks about the practice as driven by the professional interest and happenstance of business rather than any strategic concern.

No, it wasn't, it wasn't a strategic decision. I, not quite by accident, but just got involved in doing some industrial work for one particular client and he's now a major player in the industrial development in this area and along with that, a lot of his friends who were doing industrial development then have got to speak to the agents and they got to know that I do this sort of work, so they just tend to. Oh, I really don't think so, but I mean, in the area that I tend to specialise in, you know, I can produce a put and call option with a contract attached virtually on the day, given a bit of information.

For instance, we've got a client doing a very big, oh, thirty three unit strata project which is virtually sold two-thirds of it now, so we're very flexible in that when the pressure was on and I needed virtually two people and two and a half people to assist me to get over the hump where
we were doing a lot of settlements in a short period of time, we can pull those resources in, so we've got a fairly flexible arrangement here.

**Provinces of Meaning**

This firm operates from modern well-appointed offices in Liverpool. Whilst the partners speak constantly about flexibility and informality in their dealings, this relates to action between them and staff, for their clients are treated very professionally and reasonably formally. The décor establishes a commercially appropriate setting that is neither ostentatious nor shabby. The firm prides itself on quality and ensures that partners deal with clients as frequently as possible. In response to a suggestion that the partners have such low gearing that they might rush matters B responds:

Oh no, I think S and I and M, you know, I think the criticism is that often we over-service our clients, we. Well for a start, a lot of firms rely on secretaries to do work and you know that because you're dealing with the secretary. We tend to *(ensure that you see)* the solicitor who does the work. For instance, in conveyancing, there were some firms which are well known for the fact that the client never sees a solicitor in the matter. Solicitors only talk to agents, for example. Whereas, you know, and we're often critical of each other, *(for over servicing)* ..

This approach has emphasised the professional side of the firm and de-emphasised the managerial side of the firm.

Why is this? I think because we're trying to do the work. You know, there's one thing about doing the work and there's another thing managing the office. I think managing the office is like handling your own matters, all your personal matters, they get put down the bottom of the heap.

This professional approach has been blended with informality. In response to a question concerning to whether the firm operates formally.

Oh no, no, no. The opposite. I would say very flexible, very informal. Sometimes too informal. For example, you know, I've had to say to people sometimes because the language that was used in the office, look, this is a place of work, it's a solicitor's office, it's not a building site, you know, that sort of thing. It's an office, you know what I mean?
The partner, B, continues to illustrate flexibility and non-managerialism by reference to the firm's lack of strategic planning. Perhaps unintentionally, he demonstrates some building site language as he comments on the firm's lack of strategy.

No, no, we don't have any strategic plan at all. We don't and, in fact, it's something that I spoke about to S about five years ago, and he said, oh, that's all absolute bullshit. And it was such a negative approach I just dropped it. Because I think it is important to use some of those management tools because we don't know where we're going quite frankly. We don't know where we want to be. You've got to have a plan, I think. Because quite often if you have a plan at least, it's like having a dream, you know, if you have a dream, it's fulfilled. If you don't have a dream, you've got nothing to fulfil you.

There is a tension in the firm that is ambiguously referred to here. S, the big hitter, is opposed to managerialism. His partners defer to him but see a need to implement management controls. S on the other hand emphasises happenstance and worries that managerial actions may be misconstrued by customers. This is somewhat ameliorated by recent experience with a marketing tool, upon which S reflects when asked if his firm has a marketing strategy.

Oh, it's not, it's a lot more ad hoc than that. It's not, you know, we sit down and say, well, look, we've got to keep a profile here, we've got to keep a profile there. The fact that we've gone to the extent of publishing a firm brochure, you know, simply to inform clients 'cause if a client sees me, they're often unaware that at the other end of the office there's somebody is doing third party work, personal injury work for many years and lots of other heavy weight Supreme Court litigation. So as well as to inform our own clients, to inform new clients, that brochure's been done. Most people I thought initially would get a lot of bad reaction and it's inevitably been good reaction from professional people and customers alike. Ah, because it's sort of a bit yuppyish and you're pushing your own barrow, particularly when I present it to other professional people like accountants etc. and not a one, they all thought it was very well done.

A core feature of the firm is the high financing matters with which it deals. This colours all other issues. It defines the firm, and its progenitor lends his weight to that definition.

... so my main comparisons will be local firms, say within the Liverpool/Fairfield area and maybe Campbelltown, that I'm familiar with. Well, I think it's the nature of the sort of work we do. I act for a lot of
developers who are dealing with industrial properties or medium density site sort of work, millions of dollars, so inevitably the paper work becomes fairly involved and it's got to be fairly accurate and you should know what you're doing when it comes to all facets of the project and we're talking about off-the plan contracts, options, put-and-call options, zonings, all that sort of nonsense. That takes a fair degree of skill, including we do some very major, there aren't many public companies we haven't dealt with as a result of this, particularly with huge pre-leases, so you've got to develop some degree of expertise in handling this and I think just often the sheer amounts of money involved that a lot of average suburban practitioners would . . I think they'd go weak at the knees. You get used to it after a while and you know what's going on and I think the other . . I think just the nature of my Partners - B tends to be a perfectionist in his drafting and the rest of it and M tends to be that way too. Now that slows you down to some extent because you're often into your third draft and I've been in some matters where we've, because of changes to clauses and the rest of it, you've looked at a ninth draft which becomes a nightmare, but often in some of these heavier weight matters, if people start nit picking, you know one word can take on a thousand meanings and you might change it five or six times.

Dependencies of Power

Whilst the firm is a partnership it is controlled by S who is the main revenue source and has a dominating, gruff demeanour, gained perhaps from his association with industrial developers. His partners nonetheless are respected as extremely competent lawyers whose personal practices are enhanced by association with S. They achieve changes in the firm through indirect action.

Well, it's like, you know, what I think might be important is not important to S. For example, the example I gave you earlier about getting a matter list, seeing what matters are still on the list, using as a management tool and getting old matters off the list, you know, to clean up the computer system cleaned up. Now, you know, when I first went to S and said, look, there's a great number of matters that you've got on your list which really need to be cleaned up, you know, I got the similar sort of reaction. But then, he saw me cleaning up my lists and he saw me getting F's list cleaned up, we're getting I's list cleaned up and then he starts doing it, you know, so it's a bit of osmosis. Yeah. Well let me put it this way. I think that a lot of those things that I spoke about, some of those things I spoke about five years ago, he was very opposed to it. You know, if you're going to get engaged in that bullshit, you can do it in your own time. You know, it was really violent sort of. But then, it's like developing this pamphlet and even getting those sorts of statements in it.
There is some tension within the firm, demonstrated by S's domination over resources allocation. Within the social integration circuit one notes that the firm operates with great emphasis on professionalism and traditional approaches to practising law. The partners other than S attend more to the administration of the firm and express different attitudes to the staff than does he. They implement practices that are not controversial to S and quietly achieve an ambience in the firm that is consistent with their wishes.

I've said to S often, that the most important asset we've got are the staff. If we don't get the support we need, we can't produce anything. You know, his view about the staff is that it's them and us - they're the enemy. You know, it's like the old union and boss.

B3 has little influence on systemic issues of professional practice.
Chart 4.7 Firm B3 and all Elements

Firm B3

Attitude to Change
Innovation
Systems/People Orientation
MPB/P2 Orientation
Financial Return Orientation
Specialisation
Leadership
Strategic Planning
Quality Management
Marketing Focus

0 1 2 3 4 5 6 7 8 9 10
ORGANISING MODE OF B3

This firm has an incoherent organising mode that approaches the professional partnership ideal type. It is dominated by its rainmaker and founding partner who expresses disdain for any form of managerialism. Nevertheless, his partners have implemented several managerial systems and express interest in increased managerialism and accountability.

Table 4.7 Elements of the Professional Partnership and B3

<table>
<thead>
<tr>
<th>Element</th>
<th>Criteria</th>
<th>B3</th>
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</thead>
<tbody>
<tr>
<td>Interpretive scheme</td>
<td>Fusion of ownership and control.</td>
<td>Yes but dominated by founding partner, S.</td>
</tr>
<tr>
<td>Governance</td>
<td>A form of representative democracy.</td>
<td>Benign disinterested autocracy.</td>
</tr>
<tr>
<td></td>
<td>Revolving managerial tasks among owners.</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Local office as the centre of commitment.</td>
<td>Only one office.</td>
</tr>
<tr>
<td></td>
<td>Professional knowledge.</td>
<td>Emphasised.</td>
</tr>
<tr>
<td>Primary task</td>
<td>Peer control.</td>
<td>Espoused but contested.</td>
</tr>
<tr>
<td></td>
<td>Strong links with clients.</td>
<td>Intensely emphasised.</td>
</tr>
<tr>
<td></td>
<td>Widely distributed authority.</td>
<td>No.</td>
</tr>
<tr>
<td></td>
<td>Minimum hierarchy.</td>
<td>Hardly any.</td>
</tr>
<tr>
<td>Systems</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Strategic control</td>
<td>Rationality: low analytical emphasis.</td>
<td>Very low in terms of systems.</td>
</tr>
<tr>
<td></td>
<td>Interaction: consensus decision-making.</td>
<td>Informal consensus but with deference to one partner.</td>
</tr>
<tr>
<td>Marketing-Financial control</td>
<td>Specificity of targets: precise financial targets.</td>
<td>Precise.</td>
</tr>
<tr>
<td></td>
<td>Tolerance of accountability: high tolerance.</td>
<td>Very high.</td>
</tr>
<tr>
<td></td>
<td>Range of involvement: low range.</td>
<td>Low.</td>
</tr>
<tr>
<td></td>
<td>Primary focus of involvement: professional standards and quality of service</td>
<td>Emphasised.</td>
</tr>
<tr>
<td>Operating control</td>
<td>Decentralized-centralization: decentralized</td>
<td>Not applicable due to size.</td>
</tr>
<tr>
<td>Structure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Differentiation</td>
<td>Level of specialization: low</td>
<td>Medium.</td>
</tr>
<tr>
<td></td>
<td>Criteria of specialization: professional divisions and personal interest.</td>
<td>Main partner’s interests emphasised and followed by other partners.</td>
</tr>
<tr>
<td>Integration</td>
<td>Use of integrative devices: low</td>
<td>Low.</td>
</tr>
<tr>
<td></td>
<td>Use of rules and procedures: generally low.</td>
<td>Low.</td>
</tr>
</tbody>
</table>

The firm has an organising mode that is close to the professional partnership and is dominated by one partner.
FIRMS WITH TWO TO FIVE PARTNERS SUMMARY

These small firms face similar difficulties to those which sole practices face. They lack the economies of size and scale that permit larger firms to absorb overhead expenses caused by investment in management and marketing of their practices. The firms in the collection present three differing solutions to this conundrum but each solution is firmly grounded in the context of the separate practices.

Two of the firms have recognised big hitters around which the firm has been built. One of these, B1, has adopted a clear strategy of focus based on the corporate commercial niche that the talent of its name partners makes available. The firm has grown spectacularly in the last three years, has clarified its approach as professional and attracted talented lawyers to it. Though there is a significant difference in the status of B1 and B3 and the work that they do, one can still recognise similarity. Both rely on the big hitter(s) to define the firm and to attract and generate work. Both adopt an insouciant attitude to management. B1 uses fine technology and an innovative system of networking with barristers whereas B3 has a very traditional legal management system. The significant difference between the two is that B1 has a determined strategy and B3 does not. In that respect B3 is similar to B2 which is a generalist practice with no recognisable grand strategy. The three firms could be considered as on a continuum with B1 very strategic and B3 slightly more strategic than B2. Such a continuum would also represent the comparative success of the firms and coherency of organising modes, for B1 is coherent, strategic and successful whereas the other two are incoherent and under threat or in decline.
Chart 4.8. Firms with 2 to 5 Partners and all Elements

Firms with 2 to 5 partners
FIRMS WITH SIX TO FIFTEEN PARTNERS

CASE C1

Contextual Constraints

This firm practises in Sydney's Central Business District legal quarter. It specialises in personal injury, intellectual property, industrial relations and institutional commerce. It was established in 1880 and its name partners can trace lineage to its founders. It has strong connections with the Catholic Church and the Union movement from which sources it receives institutional matters. It has eleven partners, nineteen solicitors and forty administrative staff.

C1 chiefly acts for defendants in personal injury matters although it also does plaintiff matters if conflicts of interest do not arise. It has a large minority share of the personal injury market and is quite concerned that legislative action has reduced the overall size of it. Successive State governments, concerned with the level of workers' compensation claims, increasing litigation and rising State liability, have decreased entitlements, increased proof requirements and attempted to reduce the attraction that this segment of the law has had for litigants. The firm's industrial relations matters have also declined due to changes in legislation, industrial practices and union power. Although personal injury and industrial relations have been major contributors to the firm's revenue throughout its history it has not determined what it should do in response to these changes. C1 can be typified as in a stage of prolonged analysis (Miles and Snow 1988).

The Catholic Church is the third major portion of its client base and has been increasing its legal matters with the firm. The firm uses focus as its grand strategy (Porter 1980) in failing markets with no determination of how it can arrest the decline. It continues to do as it did, fully conscious that matters have changed, but apparently unable or unwilling to do more than manage matters more tightly. Some firms in the personal injury field have used high technology and gained profitability in a declining market by increasing efficiency and therefore margins whilst others have differentiated by intense total quality management. Firms in industrial relations have diversified in ways that suit a new climate of industrial relations, which emphasises enterprise bargaining rather than conciliation and arbitration by tribunals.
C1 had not determined its adaptation strategy when first visited nor seven months later when it was re-visited.

Within the firm, its managing partner is tightly in control. He has established a structure by which those in the firm can communicate by "linker" groups.

These are groups like the solicitors, the secretaries and administrative assistants, the administering staff and the word processors, so four different groups, and they meet about every three months or so, it's not as often as we'd like, maybe at least three times a year as groups, and I attend their meetings initially, for the purpose is for them to have the opportunity to make any suggestion that they think they should make about the way in which the firm should be better conducted. And that's got some great ideas. I mean, nothing revolutionary but just little things. And it has two effects. One, we get the good ideas, 98% of which we act on and, b) it makes them feel that they are identified with what's going on here.

The managing partner is an *ex officio* member of these groups and, despite his comment above, the groups do not determine matters of much moment. The managing partner looks upon these linker groups and the annual all-firm "retreat" as indicative of participative management by which all members of the firm can communicate freely. However, staff members are not enthusiastic and the minutes of these activities reveal little of significance. Partners meet monthly but delegate most matters to the managing partner who controls the firm tightly. He is self described, "sort of a mixture of management, executive, senior partner, it's all a conglomerate, you know, name, title".

The decline in the size of the market for personal injury and the changes in the nature of the industrial relations are most salient to this firm. It has an outstanding reputation for sound traditional legal work but its personal injury market is challenged by a very strong Sydney firm that has, in a period of six years, gained the major share of personal injury defendant work and is aggressive in attempts to gain more. Industrial relations changes have been very significant both legislatively and in terms of practices. Most of C1's business has been for unions and the NSW Labour Council. Both of these groupings have been reactionary to the changes introduced by successive Federal governments and energetically pursued by employers. The new
regime offers much opportunity for different legal practice but Cl and its major clients have not pursued them. Changes in legislation have made its markets more competitive and its internal management more difficult. The Managing Partner reflects that change emanates from legislative changes.

.. change *(occurs)* in terms of legislation. You know, I mean, the impact, certainly the sheer volume of law that you've got to have competence in. We're a medium sized show with about thirty lawyers, so we can cover most of the fields and it's, but even areas in which you tend to confine your practice, it's still a battle to keep up-to-date and I suppose part of that, just in the personal injuries scene, for example, the rate of change there, not a matter of just keeping up-to-date which is tough enough, I mean, I don't know how any person can competently advise an injured person who suffered injury at work on his rights unless you have read all the latest opinion, it's just as complicated as any tax area in terms of really knowing it properly. Sure, you can take a certain line of action, but you might be very fortunate to do the right thing by your client. You really have to know it back to front.

Whilst the sheer volume of legislative changes has made practice difficult, other legislative changes that de-regulated markets make competition more intense. These actions have lowered barriers to entry and accordingly increased competition from other professions, para-professionals and lawyers. In addition to de-regulation that has affected the firm's institutional matters of property and corporate advice, benefits have been reduced legislatively in the personal injury market.

I mean, the change is cutting it back. I mean, it's not just in terms of property conveyancing, you know, licensed conveyancers. People are offering and advertising to do work, you know, they couldn't possibly do the job properly. You know, we'll convey your house no matter what for $280. I mean, you can't do it properly. Sure, nine out of ten probably, ninety five out of a hundred.... alright, but that's not because you've done it properly, it's because most go right. The premium used to be for the five out of a hundred for your special skills.

JG So if I could clarify that, there's one area that you're addressing which is the competitive area, there are some people involved in quasi legal areas where they weren't before and that's ..... 

Mm, ...... changed legislation that's allowed that.

JG And then there's the other issue which I heard you talk about, which was the reduction of perhaps the amount of awards possible in personal.
The size of the cake, yes, I mean.

The firm is arranged broadly into functional areas controlled by partners. Legal and administrative staff answer to partners and the firm relies upon partners to control quality by 'signing off' all matters. One of the partners has been given the special duty of marketing. The Managing Partner sets budgets for solicitors and personally reviews their work at least once a year.

I mean, everyone has a budget, we don't crack tantrums, if they are not met. You need percentages, like if they're 30% below after say three or four months, we should tell them, you know, what is going on here? You know, they may have a good reason, but we don't expect them to meet budget every month, but if after six months they were 10% down, that wouldn't fuss us, 30% down, we'd say, hey, what's going on here?

Well, all mail is signed by a Partner. Each solicitor has to initial, each employed solicitor has to initial the signature spot to say, "I authenticate that letter", which is the equivalent of them seeing it, but as part of close partner involvement that you were talking about earlier, the partner has to sign the letter because that does a couple of things - keeps us in touch with it and supervises the solicitor, too.

C1 looks upon this method as its quality control. It has enrolled solicitors in the QIL program but its Managing Partner is not attracted to the systemic approach that QIL institutes and prefers to rely on the professional template of control. C1 does not have a formal system of checking with its clients whether they are satisfied with service but it does a lot of its work for institutional clients and its Managing Partner argues that feedback is obtained informally.

Do we have proper feedback, no, we don't really. It's something that everyone says you should have and I guess it's something, if we get round to it in the QIL program, we will.

*JG But you'd have large institutional clients, wouldn't you, that you've had for many years?*

I know they think the world of us. Yes, and it's indirect. We have an informal program at the end of a matter saying, what did you think of this?

The firm is tightly controlled by its Managing Partner and its profit margin is claimed to be high.
Well, that survey that we've participated in with the Uni has us keeping more dollars, percentage of more dollars than the majority. In fact, I think we've probably topped it\textsuperscript{36}.

He maintains an active practice as well as his management role and is clear that a lawyer should not concentrate all energies on management.

No, I wouldn't like to be doing it exclusively. In our structure here, it's the most efficient way to get it done.

**Provinces of Meaning**

C1 has its premises on two floors of a legal building in the legal quarter of Sydney's CBD. Its waiting room is furnished with leather lounges, brocaded wall paper and paintings of legal scenes. The firm's mission statement is prominently displayed as are brochures from the NSW Law Society on lawyers' services. The firm's newsletter is available as is a brochure from the firm that endorses a financial advisory service with which the firm is associated. The family crests of the name partners are most prominent. Reception is formal and efficient. The Managing Partner personally greets the researcher and farewells him at the lift service on every occasion that he visits the firm. There is a sense of practised courtesy that is conveyed by the firm.

On one occasion, the researcher addressed the Partners' Board. All partners were present to discuss the researcher's views on the firm. This meeting was marked by a reticent courtesy also. The Managing Partner's office overlooks Hyde Park with views to St Mary's Cathedral. There are pictures of the partner's family on the wall as well of a picture of him meeting the Pope. The office, indeed all offices visited, were traditional, professionally correct but slightly worn.

C1 expresses itself in terms that are traditional. Its marketing is very limited and slightly gauche. It uses a marketing consultant to advise it and relies upon one of its

\textsuperscript{36} The University Of New England conducts a survey service to legal firms. Only participating firms gain information and are contractually bound to maintain confidentiality. Nonetheless, there is much gossip about the figures. C1 may have a high nett profit margin but its major competitor is said to have the highest.
partners to attend to marketing matters. Its promotion is limited to advertisements in the Law Society Journal, ethnic press, Catholic press, Trade Union press and partner meetings with institutional clients. Its Marketing Partner considers the firm's marketing in simplistic terms and is rather proud of a green 'fridge magnet' with the firm's details on it.

I see you have got one of our magnets. These are one of our 1996 marketing tools and we use those, we give those to existing clients and what we do is, it was decided these were quite good because you have a fridge magnet, people often have magnets for the plumber, the doctor, whatever, you hardly ever see a lawyer's one, so we made sure we got a strong one 'cause there's nothing worse than a weak fridge magnet. And when our clients come in and, you know, we're always writing to them reminding them of medical appointments, this, that and the other, we say, look, stick it on the fridge with this, you know, so you don't forget. They are already a client, but eventually, you know, they give one to someone else comes in, other people drop round and you actually see it and we had a whole lot also done in different languages and we marketed those through some of the ethnic press. That's just an example.

JG Indeed, indeed.

C1 expects its clients to be able to speak to its partners and that partners take a personal interest in matters. It has established sophisticated, but now slightly out of date technology, with which it can communicate but relies heavily on personal meetings of partners in which a sense of collegiality can be engendered. Its partners say that this is not planned "it is just the way things are." H, considers the issue of whether firms need to be managerialist as markets change.

I think, well, certainly the desire would be to place it very much towards the professional end of the spectrum, but obviously we've had to become very aware of the other aspects. As you know, times have got tough and technology has become more and more involved and you have more information available about what work is economically viable and what isn't. I mean, we often use the information not so much to charge or to even judge performance, but to know for ourselves that certain sort of work is not very cost effective and just be aware of that. I mean, there's lots of conveyancing and this sort of stuff that's just not cost effective. And also, you know, to realise, I mean, it's been an enormous change, all the time recording and everything to realise, you know, really how much time you put in. So many matters, what you do is you sort of say, oh, must be worth about, you know, and you find that, you know, probably about half the work you've actually done and even now with the time recording, you know, people get better and better at it, you don't put in
everything, but you put in a lot more than you used to and it's useful, it's certainly a useful tool, it's very much a business sort of tool. It also turns out to be a useful professional tool in that it gives you a ready reckoner and note of anything you've done and when you've done it, when you were challenged or queried or when you want to rely on it and, you know, you get reminder systems and all of that.

But I think that the firm probably will almost certainly would like to be placed as far down the professional end as possible whilst obviously making sure it's viable because it's no good being terribly professional if we can't pay everyone and get ourselves a reasonable return from it. So we do, do that, that we certainly wouldn't do the business end if we couldn't keep providing, you know, what we would consider ethically a very professional type of service.

The Marketing Partner recognises that this causes problems for marketing which he seems to see only in terms of promotion. There is an expressed concern about C3, which is C1's major competitor. C3 uses very sophisticated marketing to its institutional clients but, in this next exchange, it is lumped in with some of the "less savoury firms that chase compo claims."

That's the problem we have. You see, we don't want to do that. There's a lot of resistance within the Partnership, you know, with partners against the sandwich board type people. We're not TV type people and, you know, a few years ago we said, we don't want to advertise at all, you know, we should just be known for who we are. That's not the way it works anymore. You know, people were much more reluctant in those days to steal your clients, but they've got no compunction at all now. I mean, we've acted for major unions and the like. Well, you know, people are quite happy to come in and take your client. And that happens in big firms and little firms and there's no great ethical respect. So you either sit back and sort of let your market just fall away or you take some steps within, you know, what you feel comfortable with. But something that's compatible with your own professional standards and, you know, just in the way you advertise. I mean, certain people advertise in a way that, you know, we would never advertise and we considered sort of used car salesmen type advertising, but on the other hand, we're quite happy to advertise in a way that we think is ethically okay and puts our name and our reputation out there for people so they can be aware of us, so when they're thinking of someone, they can see us, but you know, were not advertising free this and free that, you know, two for the price of one and anything like that.

JG And a free green fridge magnet with every matter.

Well, we've done that. Yeah, that's right. I remember that guy was advertising or there was an article or saw something on TV, so you've got
to try and work out what you think'll work and that's why you use some of these media people, as we do, with their expertise. And also, we thought, well, let's just try an ethnic group and see how that works, one of the ones that we have some experience with. And for instance, we've sort of put some time into the Arabic because we have a number of Arabic speaking people here, like C, you know, I mean, D, a number of others, and rather than say, you know, advertising in six different ethnic presses and attending all their things, all of which is quite expensive, let's concentrate on an area that we know we have a prime base in and see what we can do about expanding and if that works really well, well then we might move on to another area as well. So at present, we have spent a bit of time this year on the Arabic market, for instance, and we've sort of got into El Telegraph and we've put up, we've been to a number of the big Arabic carnivals and had a stall. I think I was saying, yeah, we concentrated on that market and we've done a few other areas of marketing, like the country, because we have a big country practice, we always have had. Traditionally the shearers and everything 'cause we acted for the Australian Workers' Union. And so as the role of the unions has diminished somewhat in the country, to keep our name up there, we've had to advertise and remind people and we have some ads that have, you know, pictures of shearers and the like and we advertise in The Land and, you know, some of the inserts in papers that might go to thirty major country towns and the like just to, and they seem to be quite effective. And we certainly do concentrate on a number of country areas. We should be in a position where we can do that just because, you know, we can say, I always said in my marketing, you know, when I was a home builder and I was looking for a tradesman and I knew nobody in the area of, say, plastering, or anything. I looked through the ads and what I looked for, we use the three E's, I looked for experience, you know, you can see something there saying thirty years in the game, I looked for expertise such as member of the NSW Builders' Association and I looked for expense, not necessarily the cheapest but something that sort of thought, well, maybe they're not the dearest and you know they'll give me a good deal, something that, and that was enough to make the 'phone call, right?

And you needed to pick up those things, I always thought, in an ad, and they're the sort of things that, unlike others, we can certainly offer - experience and expertise of a lot of accredited lawyers and we had a big reputation. We can offer on expense. So we can offer things that, hopefully, get our name in front of more people and so that we keep our basic share of the work, even though it means we've got to expand our reach. So I think we've got to try and do that and I guess, we have to be a little inventive in different areas of litigation because there's doors that shut. For instance, we're now moving into, much more into medical negligence type work and associated areas. I mean, we've just got to look at all those areas because litigation, I mean in America it's a very big area, but out here governments tend to shut it down by legislation wherever they can.
Yeah, it is something that we do have to look at. We also have to look as I say, strengthening our role in that declining market because there’ll always be a market there. We think there’ll always be a market there, whether it always, there mightn’t be any workers' comp. but there’ll be personal injury litigation and to make us the, you know, David Jones or the Grace Bros or whatever, because you only actually have to look at some of the firms who prospered in the last few years, who literally started from nothing within the last five years, just a man with his shingle and advertised just right across, advertised everywhere - TV, radio, and you know, you’ve probably heard a number of the firms advertising. And they have done extremely well. They have taken major shares in the market in traditional areas and that’s only through the power of getting your name out there.

The marketing of this firm is a very good marker of the its province of meaning. Its Marketing Partner recognises the changes that have occurred in the firm's markets and sees that the firm must respond but in a manner that is consistent with the developed values of partners. Nonetheless, he expresses no clear notion of how marketing strategy may be developed and concentrates all his discussion on promotion, one aspect of marketing which is meaningless without clear strategy.

Its Managing Partner similarly reflects on broad changes in the legal industry and the intention of the firm to behave professionally. He sees that lawyers act more aggressively and less collegiately than they did a decade ago and insists that his firm should emphasise traditional values. Throughout the firm this notion of tradition is seen as is the apparent incapacity to move from the way things were.

**Dependencies of Power**

Resources power is restricted to partner level within the firm. This is chiefly delegated to the Managing Partner who dominates the firm. He has more equity than any other partner and conducts the affairs of the firm autocratically. There are systems in place that purport to share decisionmaking, for example linkers groups and the Marketing Partner but, in effect, the Managing Partner controls the social integration circuit also, through performance review and dominance of partner admission. The firm’s major practice is in personal injury, a declining area, in which aggressive marketing and cost leadership strategies typifies competitor firms. C1 has decided to emphasise its professionalist approach to these matters but has not
determined a strategy that will make this effective and is losing market share to its competitors. Its influence in the system integration circuit is minor.

The firm insists that partners deal personally with matters and this emphasis has centralised power. The following exchange shows the conundrum that this professionalist approach causes. On one hand, partners wish to emphasise tradition and courtesy. On the other hand, this forces costs up in a declining market. Moreover, what is one to do to maintain one's market share or gain someone else's business.

I think that's purely level of service, you know, it's one of the reasons why we don't, why I don't delegate it out is that they know that they can speak to me, anyone of their approving officers, at any trivial or other aspect of any matter in time, they'll speak to me and they'll get an answer. It doesn't always happen in other places. They'll speak to someone down the line and someone'll have to get back to them and I should know about every file at my fingertips, hopefully, so, and you give them a lot of feedback and we do a lot of extra work for them, advising about developments in the law and say look, you should know about this and send them down a paper on this or that, so. And yeah, we have conferences every, my major clients and interstate client, they come up here and, you know, spend a few days up here and, you know, we sort out a lot of files. We do that a couple of times a year.

Because, you know, there are say, a few major players in this, say the third party insurance industry and we have major business against them so we can't hardly act for them, we'd have to can all of that work and, you know, we prefer to stay with what we know then. But, you know, there are, so we have to pick insurers that we don't think are going to harm us if we take their work on, we're not going to lose too much by and we're going to gain some work, so that's not such an easy task and they're usually bedded down with someone and, you know, it's something that you don't just do by advertising as you normally do, it's a fairly subtle procedure and if the opportunity arises, if a solicitor is giving up or, you know, you sort of find at seminars and the like that someone's a bit disgruntled or if they want to send the work to us, I mean, it's a word of mouth thing amongst insurers as well, we'll look at it.
Chart 4.9 Firm C1 and all Elements

Firm C1

- Attitude to Change
- Innovation
- Systems/People Orientation
- MPB/P2 Orientation
- Financial Return Orientation
- Specialisation
- Leadership
- Strategic Planning
- Quality Management
- Marketing Focus
ORGANISING MODE OF C1

The firm has adopted an organising mode that tends towards the Professional Partnership. Its values and power have influenced its structure so that it emphasises professionalism as one would find in the P2 ideal type. However, it faces decline in its major markets and has been unable to enunciate a strategy that will enable it to continue profitable practice and retain this organising mode. During the nine months of research whilst the firm was observed it has moved no closer to resolving this issue. It recognises that there is an issue. It recognises that its period of analysis has been prolonged but its Managing Partner seems unwilling or incapable of deciding and without his decision nothing happens.

This firm therefore has an incoherent organising mode that tends towards the professional partnership. Its Managing Partner dominates this firm. It tends towards an organising mode approaching P2 but its economic circumstances have the firm searching and subject to change.
Table 4.8. Elements of the Professional Partnership and C1

<table>
<thead>
<tr>
<th>Element</th>
<th>Criteria</th>
<th>C1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interpretive scheme</td>
<td>Fusion of ownership and control.</td>
<td>Comprehensively so for equity partners.</td>
</tr>
<tr>
<td>Governance</td>
<td>A form of representative democracy.</td>
<td>Yes but dominated by Managing Partner</td>
</tr>
<tr>
<td></td>
<td>Revolving managerial tasks among owners.</td>
<td>No.</td>
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<td>Local office as the centre of commitment.</td>
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<td>Systems</td>
<td>Rationality: low analytical emphasis.</td>
<td>Very low in terms of systems.</td>
</tr>
<tr>
<td>Systems</td>
<td>Interaction: consensus decision-making.</td>
<td>Consensus that recognises dominance of name partners.</td>
</tr>
<tr>
<td>Systems</td>
<td>Specificity of targets: precise financial targets.</td>
<td>Precise.</td>
</tr>
<tr>
<td>Systems</td>
<td>Tolerance of accountability: high tolerance.</td>
<td>Very high.</td>
</tr>
<tr>
<td>Strategic control</td>
<td>Time orientation: short term</td>
<td>Short term.</td>
</tr>
<tr>
<td>Systems</td>
<td>Range of involvement: low range.</td>
<td>Low.</td>
</tr>
<tr>
<td>Marketing-Financial control</td>
<td>Primary focus of involvement: professional standards and quality service</td>
<td>Intensely emphasised.</td>
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<tr>
<td>Operating control</td>
<td>Decentralized-centralization: decentralized</td>
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<tr>
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<td>Matching professional and personal interests for partners.</td>
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<td>Integration</td>
<td>Use of rules and procedures: generally low.</td>
<td>Low.</td>
</tr>
</tbody>
</table>

C1 has an incoherent organising mode that tends towards professional partnership.

CASE C2

Contextual Constraints

This firm is a firm of eight partners, seven legal staff and eighteen other staff that specialises in commercial property, general commercial matters and commercial litigation. It focuses its work on medium to large enterprise and emphasises retaining clients rather than gaining new ones. It has three equity partners who provide the firm's name. One of these has majority interest. It has been a much larger firm but
has recently been through a substantial restructuring that dominates the thinking of its partners. It now has a settled strategy of cost leadership\textsuperscript{37} and is led by its Managing Partner, the major owner, in a system that enables him to take most decisions and consult with partners in a system of "participative management".

Our restructuring occurred this way. In 1986 the firm was a two Partner firm, I think it was '85 - I was one of those two Partners, but I was also, I produced probably 75% of the fees. I threw out the other Partner and brought in two new Partners fairly rapidly. We had a period of twelve months where we were quite happy and profitable. We then, at the behest of one of those new Partners, were approached by a Melbourne firm who wanted to expand from Melbourne to Sydney on the basis that they had a significant number of clients who wanted to be able to have legal services provided on a national basis, which was in reality Sydney/Melbourne and there was a desire, particularly on the part of the Melbourne Partners and there was some thirteen of them, to expand the firm into Sydney because I think they took the view the Melbourne market was declining. We resisted those approaches for some time, but ultimately on the first of July '88 got into bed with them and that was when we became a fully merged firm. We initially started out at sixteen partners. There were three in Sydney and thirteen in Melbourne. We brought some new partners in to Sydney from outside and we ended up being a partnership of twenty three. It wasn't happy because Melbourne wanted to look at what Sydney was doing and Sydney \textit{vice versa}. There was imbalance in weight, the administration was all in Melbourne. We were fairly rudderless here and in early May of '92 we took a decision that we wanted to be financially independent from Melbourne because we saw that Melbourne, in fact, was a market that really didn't have much potential and that we were working pretty hard compared to what they were doing.

Their response was to dissolve the firm and we spent the next two years trying to work out a financial settlement between all this. But within that time we had introduced, I think, probably four partners who were really not suitable. Those people joined the firm, I think really on the basis that it was sort of like a retirement home where they wouldn't have to work very hard and they could relax. Ultimately, they were moved out and we were left with a very significant bank debt. We were left with a big problem with premises because we had probably three times the space we required. We've resolved the bank debt by paying it off in part and that's in consequence of working particularly hard. We negotiated with our landlord for more than twelve months and ultimately secured a very good deal for ourselves so that our occupation costs reduced from something like 13% of turnover down to about 3%. And we've now got a team of focused and committed individuals who are very like-minded but still somewhat different individuals. And the big, the big change that we've

\textsuperscript{37} This term refers to efficiency, not price. It emanates from Porter's (1980) notion that a strategy that emphasises efficiency increases margins and therefore permits firms to gain competitive advantage.
experienced in this practice is that we've got rid of people who wanted, who were blue skies. I mean, the significant change we made was in February '94 when we had to change the name from PB to something else and we decided we'd take the unusual step of calling the firm who we were.

Much of the re-structuring was managed during a period when the firm had a non-legal General Manager, M, who is now a University Chancellor and Chairman of a very influential Government commission, attended to the managerial issues of the de-merger. The firm's accountant reflects on that time.

We were in the process of becoming something different to PB. We then had M here who was the CEO. My initial appointment was that of Financial Controller. She actually, you could say, concluded all of the negotiations of the de-merger and she saw to them taking on the new identity, the new name and so on.

The acceptance of managerialism is a paradoxical feature of this firm. Its partners pride themselves on being professionalist but have achieved this by using very well developed technology and systems to support the firm's emphasis on professionalism and collegiality. Its Managing Partner explains this paradox by referring to the firm's debt and arguing that it required "managing smarter but not losing ourselves". C2 is committed to partnership and sharing of decisions. It achieves these by delegating its Managing Partner to lead the firm and systems to monitor performance. All its partners meet weekly and its financial controller is an ex officio member of that meeting. It contracts four consultants including one who has extensive corporate legal experience of the mining industry and one who is a Professor of Law. This managerial device of out-sourcing adds value to the firm with reduced overheads and is typical of the practical approach that the firm adopts to achieve its vision of being traditionally professional and profitable. The Managing Partner behaves like a small business owner, not trained in management, nor interested in it per se, but willing to take advice and use new methods if they fit the vision of the firm.

JG And, well, look at the gearing here nonetheless. There are eight Partners as against seven lawyers as against eighteen administrative staff, so from whence does this efficiency come?

Well, again, nothing's perfect and Winston Churchill said there were lies, damn lies and statistics. The structure of this firm is, we have three
equity partners, five salaried partners, we have seven other lawyers. We have in addition, three consultants, really four. One is A who is Professor of Law at XYZ University - he comes in usually one day every fortnight. He is our resident think tank and we see him as very important in terms of getting quality into the organisation. We have another fellow, P, who is a pretty hot-shot commercial lawyer who, in fact, is Chairman of a mining company, but he has vast experience and if we have a big deal, we'll bring P into the big deal. That's efficient for us because we don't have the overhead cost. We pay him as we use him. We have another consultant, R who also consults to particularly Freehills, and he comes in periodically and his background is insurance. He helps us with insurance matters.

So in terms of the, what I described on the form as "admin. staff", that includes pure admin and the support staff. Within that we have four para-legals, for example, who operate the Mortgage Department. The gearing is about half a secretary to a fee earner.

Another example of this managerialism for a purpose, is the firm's attitude to rental and its current lease. It intends to grow but looks upon its lease as a limit to growth within these premises. Accordingly, it will use these premises and expect partners and staff to also maintain personal offices from which they can work. The firm currently uses computing technology to aid this "hot office concept" and will extend it when the new computing system is purchased. It has been very innovative with its technology use.

Well, I think we're certainly constantly reviewing how we do things. So innovation, I mean, we're constantly looking at how we do things and you know, how we can improve the processes. We have an electronic law library which probably not too many firms our size have. We have our resident professor who not only provides us with legal advice, but for example, guides us in the use of the electronic library and also gives us his bookmarks on the Internet.

We have a dog of an accounting system which we're looking to replace, but we haven't found anything that's better. We've overcome the deficiencies in the accounting system by running a parallel Lotus system which allows us to get much more meaningful information. We have, as I say, the electronic library. We've got to the point where we've got a fairly sophisticated scanner so if we've got a large commercial transaction and if we can get hold of some documents off the back of a truck, we can scan them into our system and be able to produce them.

I mean, unfortunately, it is a paper war out there and there's an awful lot of paper that's generated and, indeed, having gone down the track and looking through the, for example, the specialist accreditation courses, it
seems to us that the people who are running those courses want an awful lot of paper produced just for the sake of producing paper. Our firm was established in 1895 and we have some records that go back to that period and it's most significant that the, one of the great things, when you pick up something that was written in 1905, is the incredible economy of language because things were either handwritten or typed on a very poor machine. People say in two paragraphs what a lawyer today would say in probably five or six pages.

This exchange reveals some interesting context. Technology enables the firm to achieve its aim, which is, "to make a dollar, reduce the bank debt, have quality of life and build a successful firm that's going to be around next century." The firm adopts a 'pragmatic' approach to gaining drafts of commercial transaction contracts, (when they fall off trucks). The Managing Partner is concerned that quality management programs do not add value to the firm, even though he has one of the salary partners currently being accredited through the QIL program, because, "it is expected". The Managing Partner has an admiration for the traditions of the law and the work of his predecessors.

JG And when you say "build a successful firm", are we talking about growth in the firm's base?

We're talking fairly modest growth. We have been as big as thirty lawyers. We've got a very clear view that a well positioned firm is one that probably has about ten to twelve Partners and probably fifteen to twenty support staff, but in terms of size, we have a physical constraint because we have occupancy here on this floor, we don't want to exceed that. We think that it won't be necessary to accommodate everyone at any one time because we have to become increasingly more mobile, but we also believe that technology is the salvation of the smaller firm. We certainly want to be able to take advantage of that. We also have an overhead structure that is very competitive compared to other firms. Lawyers are great gossipers, but there are some firms around town and some medium firms that have got very significant expenses problems.

**Provinces of Meaning**

The firm leases a floor of a prestigious tower in the financial quarter of the Sydney's Central Business District. It is modern in décor, using primary colours, granite reception desks, fabric waiting lounges, with original art and National Heritage Commission prints on the wall. Within the firm the partners' offices overlook Darling Harbour and the clients' meeting room looks towards the legal quarter in the distance.
This modern exterior is said by its Managing Partner to express the notion that the firm is modern but its essence is professional law. He counterpoints the approach of lawyers to that of accountants yet does so with a decidedly corporatist example. His view is that lawyers must be exemplary professionals if they are to retain client loyalty and community respect.

Well, the accounting profession is certainly seeking to drive a wedge into the legal field and accountants see themselves as the great providers. They have what they think are business skills that are superior to any other profession and they see the provision of legal advice as simply something that is hired in for the occasion. Most of the, as I understand it, for example, most of the big law firms in Europe are accounting firms. I think accountants would like to, would like to, you know, go down that track and there's been some attempt to do that here, but I suspect our client market isn't quite ready for that. But I think one of the great challenges, not particularly articulated in my answer, is that lawyers have to work together as a group to be prepared to share the learning and benefits that they each have so that collectively, the public perception of lawyers and the advantages of using lawyers will mean the people who have a particular job to do will go to a lawyer rather than some other consultant because they will get added value.

Now, for example, if you take conveyancing. There are two limbs to legal work in a sense. One is the design of the product, which is at the thinking end. The other side of it is the transactional side. We have a fairly significant mortgage practice here where we do very high volume work for absolutely peanuts, but it's an important profit centre to this firm. The document design was done by one of the mega firms at, I presume, vast cost. I think that's an appropriate use of the large firms and they have undoubted skills in that area, but for the transactional side of it, the client comes to this firm because we're incredibly efficient in terms of being able to volume process matters for small fees.

C2 uses cost leadership in several areas to generate revenue that "permits the firm to do some really interesting law." It manages its resources tightly, using the latest in technology, but is constantly aware of its essential professional core. C2's Financial Controller refers to her previous experience in a firm of Chartered Accountants. She observes that the lawyers do more, do not as clearly appreciate control systems but still run a tightly controlled office.

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38 This comment, when heard, rather than seen, drips irony.
JG You had worked previously in an accounting? Is there much difference in your experience between the chartered accountants and the lawyers?

Um, yes, there's a difference by even work volume. Chartered accountants, regardless of how many professional accountants they may have, the final signature as it were has to be from a principal accountant, but solicitors can work very independently. I mean, even a salaried solicitor can sign a bill for instance, you know, conclude a matter, a case, yes, so that the volume is, therefore, almost double if not more. I mean, I came from a similar sized firm of chartered accountants and I find that the volume here is greater, much, much greater.

JG Are the systems as great as in the chartered accountant's firm?

Um, different again because they're accountants, so much the same. Is it the appreciation, I guess? Yes, that's the word, isn't it? That is what it is at the end of the day. Accountants can appreciate systems. We do prepare a very comprehensive budget, not only for the fees, the expenses and, on a financial front, yes, there is a budget. This firm is very controlled, strictly adhered to, yes.

The firm may be tightly controlled but it is control with a purpose, to permit the firm to be truly professional. The Managing Partner makes some comments concerning the culture of the firm. As he does so, he emphasises collegiality and ownership as a value that drives the firm. He reveals his own interests also.

Probably I'm a bit too close to it to make that observation. It should come from others, but I think we're a firm that provides quality work environment for our employees. The legal product that we sell is important, but the individual's well-being is also pretty important. So we, for example, don't have a culture which requires people to be back here at nine o'clock every night just for the sake of being back. I mean, I have a particular view that if somebody works hard from nine to five, by the time five o'clock comes they're pretty bushed and they're not much good for anything else so they might as well go out and get some relaxation. Now the hard reality is that the Partners work fairly hard and certainly the three equity Partners are here by seven o'clock every morning and don't go home until six o'clock and most of us don't stop for lunch and some of us, you know, take work home and carry on.

I think we're a real partnership. I don't think the corporate approach works. Well, I don't think it works for this firm because we have, it's a very difficult concept. For example, when you've got people working in a business, if you had a corporation where all the shareholders, in fact, came to work every day and worked in corporation, it would be bloody impossible to manage it. Here we have people, want people to have
ownership in the operation. Not everyone can participate fully in the administration and management of the firm so there has to be some management. From my own personal perspective, I mean, I wouldn't survive in a firm that I didn't manage, not because I've got a big ego or anything, but it's simply over a long time and with my dollars on the line, it comes out of my pocket if someone makes the wrong decision. I mean, I don't want people to make wrong decisions. But I think we have developed a system of shared leadership where we invite everyone to participate in the process. I mean, what is autocratic is if there is some decision that's got to be taken, the Managing Partner simply takes it and other people find out by default. Shared leadership is for the Managing Partner to be able to communicate effectively and say to people, look, this is what we want to do for these reasons, here are the good points, the bad points, what do you all think? Come back, give me your comments, then we can make a collective decision. That sort of thing, I think, is the way that we're heading.

A crucial element in the firm's province of meaning is its partners' notions of its own particularity. It has behaved differently than other firms in several important junctures in its life and it has a notably pragmatic, down to earth, approach to its affairs.

I think each firm has to do, I think the lesson we've learned is you've got to do what suits you. I don't think you just follow people blindly for the sake of following them. We've certainly had some problems and I in particular have not communicated, but I have been endeavouring to communicate with people better and to keep them informed, to let them participate. In terms of a management structure, when you're a two partner firm you don't have meetings because the partners, in fact, probably meet with each other half a dozen times a day. As you get larger, obviously you've got to have more structure. The predominant wish around here is to maintain this as a friendly firm and we don't want to get to a size where we sort of, don't know people. We want it to be a happy place to work. We'd rather be happy people than unhappy people. So, for example, we have, sure we have three equity partners, we have five salary partners. We certainly want the salary partners to move into an equity position but we resisted with that some years ago because of the problems we had from the fall-out of PB we frankly didn't know what it was we had to sell them or give them or what they were buying into. So we held off, but I think that's something that we'll lock up within the next twenty four months and that will achieve commitment and will give us the platform to slowly go forward. But whilst we have salary partners, we endeavour to treat our salary partners as fully as if they were equity partners. We have partners' meetings every fortnight. We have a discipline about that. We have full financial disclosure to our salary partners. Any figures we get, they get. They have full rights and entitlement and access to anything that's in the office.
Dependencies of Power

Much of the foregoing has related to dependencies of power. This is expected as organising modes are formed by interdependent elements. Thus, provinces of meaning and contextual constraints can tell a story about dependencies of power. This is particularly so in the case of C2. Its Managing Partner has equity control and management control. He guided the firm through its de-merger and during its recovery. He has consciously adopted an approach that is collegiate but has him in control as *primus inter pares*. He has been successful in this process. At the time of the feedback meetings the researcher was informed that C2 had been approached by a major commercial firm with a lucrative offer to merge. The partners rejected this offer and confirmed the Managing Partner in his position. He is in control of the agency and social integration circuits of power and dominates the firm systemically. The firm is not deeply involved in Law Society matters nor wider legal matters, consequently its influence in the external system integration circuit is minor except by example. C2 seems to have solved the conundrum of being professional in rapidly changing markets by tight leadership, ultra modern technology, out sourcing and close attention to values. Its example indicates that you can retain professional values and manage efficiently.

It is a fascinating firm that has a coherent organising mode due to the control of its Managing Partner who manages the meaning of the firm. Accordingly it is able to express clear values of professionalism but permit these by tight management.
Chart 4.10 Firm C2 and all Elements

Firm C2

- Attitude to Change
- Innovation
- Systems/People Orientation
- MPB/P2 Orientation
- Financial Return Orientation
- Specialisation
- Leadership
- Strategic Planning
- Quality Management
- Marketing Focus

0 1 2 3 4 5 6 7 8 9 10
ORGANISING MODE OF C2

This firm, similar to B1, has strategically evolved into an organising mode that tends towards the professional partnership. It is values driven but has these ameliorated by contextual constraints that have required the firm to be extremely efficient so as to survive. The power circuitry of the firm accepts the Managing Partner as the chief decisionmaker but he consistently refers decisions back to all partners in a participative leadership role. This combination of context and power coherently permits the firm to retain elements of professional partnership while being tightly managed. The firm has a coherent organising mode that tends towards professional partnership.

Table 4.9. Elements of the Professional Partnership and C2

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<thead>
<tr>
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</tr>
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</tr>
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</tr>
</tbody>
</table>
C2 has a coherent organising mode that tends closely towards professional partnership.

CASE C3

Contextual Constraints

This firm has 15 partners, 76 legal staff, 119 administrative staff. It specialises in insurance from its Sydney office and has a reasonably strong, but regionally bound, commercial practice in Newcastle, where the firm was first established, as well as small practices in Melbourne and Canberra. The firm is the market leader in its insurance niche. It has 12 of Australia's 14 major motor vehicle insurers as clients as well as the majority of the major Workers' Compensation insurers. It specialises in defendant work. It decided strategically to adopt this specialisation about eight years ago after it delegated two of its partners to 'take a sabbatical' in the USA and advise the firm how it should organise. C3 decided to use technology and tight management to provide it with cost leadership that would permit it to service its clients excellently. It provides exemplary service to clients. Its lawyers regularly provide seminars and direct business advice and training to clients' managers. Its technology enables clients to link directly to C3 and keep track of how matters are proceeding or receive advice on precedents. Its Senior Partner actively visits insurers and ensures that C3 mirrors the systems that leading insurers use. For example, MMI is the largest workers' compensation insurer in Australia and has decided to use very high technology and strategic centralisation to gain cost leadership. The Managing Partner of C3 personally visited MMI's claims servicing centre to learn more about its systems within two weeks of the Centre's opening.

Its management is specialist and involved. The firm uses an Executive Board that consists of Managing Partner, elected partner and General Manager for its tactical management. It meets fortnightly and in effect its GM, a non-lawyer who has made a career managing legal firms, manages the firm day by day business whilst its Managing Partner leads the firm strategically. C3 poached him from a successful New Zealand legal firm when it decided to employ specialised managers in senior positions. The firm grew incredibly quickly in insurance and this dominates its business now. The firm was established in Newcastle and whilst it still retains an
eight partner business there, these partners contribute a minority of revenue. During this stage of the research this issue was being investigated by a consultant and the Executive Board who were to report to the full Partners' Board on the future of the firm. One option being considered was to dissolve the partnership. At feedback interviews the researcher discovered that the report had been endorsed and the firm would continue with its existing structure but no further information was available. The partner, McD, who runs motor vehicle insurance matters which provides the firm's best margins and quickest growth comments on the matter.

At the moment there are ten equity partners that sit within the firm and probably six salaried partners. There are five insurance litigation partners and five commercial partners, equity partners. The problem that we are now facing is that insurance litigation now brings in 75% of our total income and commercial is only bringing in 25%, yet we have an equal number of partners sitting there. So that's a fundamental issue that we have to address and it's on the table. And unfortunately four of the five commercial equity partners reside in Newcastle.

Four years ago Sydney and Newcastle were probably bringing in about the same amount of money, roughly. Sydney now brings in 55% of the total income of the firm and Newcastle 38% and the others are very smaller percentages. Obviously, it's primarily a fairly driving concern of mine at the moment, being one of the junior equity partners, that this has to change. Now, how we change it and whether the problems that exist in Newcastle are just a general economic downturn in Australia or relate to structural economic change which is occurring in Newcastle, has to be looked at. I suspect it's the latter, but obviously in looking at this change process, it's a real issue for our Partners in Newcastle.

At different points in a firm's life certain issues will dominate its context. At the time of interview the inequitable contribution of partners to a profit that was evenly shared was pre-eminent in the affairs of the firm. The firm was established in the nineteenth century in Newcastle and its insurance practice in Sydney formed in 1991. Partner McD, reflects on the effect this history has upon the firm and mentions the mechanism that the firm has chosen to resolve the issue.

It's a real problem for us and of course, the way the power base within the firm has existed in the past where Sydney was the branch office but now Sydney has assumed a pre-eminent position and that causes tension within the partnership, which is, I think that's not surprising or not terribly a secret issue. Number one, you have to have it on the table. Partnerships are terribly polite. We've had one go at it at Terrigal two or
three months ago where we talked around the issue, these issues that, and they were in people's minds but no one actually came and said, what are we going to do with this problem? A committee's now been formed consisting of two Newcastle Partners, two Sydney Partners and our GM to come up with a strategy.

Number one, where we want to be in the market place in five years' time, how we're going to get there and that may necessitate changes in what partners are currently doing. But what I'm becoming more and more convinced about is that, C3 has been a very harmonious partnership and people say, oh well, you know, everyone gets on well together and there's no acrimony, but perhaps there needs to be much more acrimony in the sense that let's get it on the table, let's call a spade a spade as to what is happening here, and that is very important. As I see it, it's part of the change process.

The firm is notable for its wholehearted endorsement of managerialism and its rapid success. M was poached from a major insurer that had monopoly over third party motor vehicle insurance where he had been senior corporate counsel. When that monopoly was broken due to de-regulating legislation, C3 competed very aggressively for the new entrants to the market. Third party insurance legal matters are relatively simple and permit the use of technology and high gearing ratios of administrative staff to legal staff. This firm gears this part of its business at 14::1.

Oh, I.T., information technology is the key to the future Um, we've streamlined, we do a lot of, I'm not saying factory type, but it is assembly like, C.T.P. a lot of the claims are fairly repetitious, workers' comp. We were able to develop a system whereby we, you know, we're fairly production line orientated by using our computer systems. We were also able to offer linkage to our clients and say, well, okay, you will have real time access into the system to see at any stage where your matters are at. So they can look in and see, for example, what we've done, the last correspondence we've sent to them, where the matter appears to be up to and things like that.

C3 now hints that the University of New England survey of legal firms, mentioned earlier, shows that C3 has the highest earnings of any firm in the sample and its partners have strong views about organising modes.

The partnership structure is a very inefficient way to run a business. If law is a business, which I think it is a business in the '90's and, you know, ten to twenty years ago some of my partners, you know, would, I think still are in the view of, well, we sit in our offices and the clients come to
us. Those days are well and truly over. People want to interfere. People want to have their say. Even though we have a General Manager, lots of interference - and that is bad in running a, I think in running a business. I think a corporate structure is much better, that we, maybe the partners should have certain shares in the business itself and we have a General Manager and we sit as a Board of Directors or whatever, but people do tend to interfere and that's an inefficient business structure.

C3 partners interviewed say that the firm has "corporatised" within the partnership structure.

What we've done is we've established a, we appointed a General Manager who runs the day-to-day operations of the firm. All support issues or let's say, human resources report to him, I.T., so everything that supports the firm. He meets every month with Managing Partner, Sydney, and our Newcastle liaison Partner. That Executive Board considers issues that are raised that require some firm policy direction. The Board then, you know, issues the directions and usually they're responsible for the day-to-day management of the firm. Bigger issues will be decided by a full partners' meeting, which are usually on a quarterly basis.

**Provinces of Meaning**

The firm is located in a recently completed grand office tower on the border between the Financial Quarter of Sydney and its Legal Quarter. Sydney has built very few masterpieces of urban architecture since the 1970s. This is recognised as one of them. A massive two tower structure with light filled courtyards arranged with cafes combines grand scale with light, institutional art and furniture in a way that achieves warm introduction and cool efficiency. It is a pleasant place to be which expresses the nature of its city. The building is within easy walk of the Parliament and nearby are the offices of the Premier of NSW and the Attorney General. The decor is strikingly modernist with partners' and senior managers' offices expansive and furnished in leather and chrome with modern art. The researcher did not visit any other areas than these and the Board Room during the first data collection.

Those within the firm make great efforts to ensure that they are approachable to staff and clients and meet regularly with clients for information seminars and for business social events. Senior Associate B explains the way the firm does business.
Client servicing is very important, in the sense of we act for many, just so many, that that is also a two edged sword because we can be accused...... Well, in one of my presentations to one of my clients the suggestion was made to me, well, how do you service, you act for so many of the others, how do you service, how do I know that you're giving proper attention to us as a client? So you have to counter that and you have to be very careful and make sure that you are spending a lot of time servicing them, you are offering them a lot of value added service which unfortunately, you know, is non-chargeable. We offer them, for example, in C.T.P. four breakfast seminars a year which we provide dealing with various topics that affect their business operations. We give them in-house training. We give them newsletters. So a lot of value added stuff that is now expected by a lot of clients.

Oh, I mean, I think we pride ourselves on the fact that we can sort of, come in and speak to our clients at their level and, you know, cut the lawyer/client bullshit. that a lot of other, I think a lot of other firms still like to carry on with.

The firm gains most of its revenue from areas in which the law changes rapidly and accordingly its clients' corporate counsel and para-legal management need advice. As was noted by the Managing Partner of C1, a direct competitor in this market to this firm, the insurance law has changed so rapidly and voluminously that any one person is incapable of staying abreast. C1 look upon this as a challenge to its lawyers. C3 looks upon this as an opportunity to its lawyers to brief clients. It gets close to its clients by advising the insurer on file management as it calls it and coaches the client on how it might manage a matter by gaining evidence, presenting demands and preparing the file for negotiation or litigation.

In summary, the firm's people must be able to professionally understand these matters and work with clients to ensure that they do also. C3 combines its great ability to gain advance notice of the detailed changes in the law with its technology and managerialism to present these matters quickly and understandably. These forces shape the firm's province of meaning which is modernist, managerialist, down to Earth, work with the client.

Dependencies of Power

The firm's dependencies of power are 'in debate' during this stage of the research. The firm was established in Newcastle in 1882 as a commercial practice. It formed a
subsidiary branch in Sydney in 1963. In 1991 the firm began to aggressively pursue insurance business. This decision changed the power balance of the firm. It now has five equity partners in Sydney and five equity partners in Newcastle, with the large majority of the firm's revenue coming from insurance business, most of which is in Sydney. In the last year it has admitted a new equity partner and employed twenty lawyers. Its last two partners have come from corporate locations and bring with them a managerialist approach to legal practice. The firm's revenue has grown 20% each year for the last three years and in Compulsory Third Party it grew 55% last year. The largest revenue returns are from insurance business. These phenomena have combined to cause tensions within the partnership. It currently is an equal partnership but uneven revenue contribution as spectacular as occurred in CTP lead the partners to review their profit distribution system as projections show that insurance litigation will continue to grow whilst commercial matters, particularly in Newcastle, will continue to decline.

Internally there's a feel of inequity amongst some of the bigger practices. That really has to be sorted out for further growth because as business has grown, there's going to be a push for new partners and as new partners come in. That feeling of inequity tends to pop its ugly head up again. There are methods of doing it. Things like giving them shares and things like that. I mean, if they get their equal share and they have to perform at certain levels and so on and so on.

_JG_ You're talking a differential profit sharing based on equity? It's quite a move, isn't it, from an intolerant\textsuperscript{59} equal partnership arrangement to a differential?

It's going to be pushed, I don't know whether it's the way to go, though. From people I've spoken to, I've got friends in Accounting and their Board meetings are spent, 90% of the time is duck shoving the costs so that their group doesn't have to bear the cost and the profitability is altered and things like that. I think the internal pressures and counselling should be sufficient amongst those equity partners to make sure that they're happy with their other partners. That's easier said than done. We haven't got a physical point scale to equalise them at this stage and I think that may have to come in. It's being mooted, but I personally don't think it's the way to go because it creates more inequalities. So the internal politics is a big challenge for the firm, especially if we're going to continue to grow at 20%.
This issue was dominating the firm when data were first collected. The firm uses technology and specialised managers to tightly administer the firm. The Executive Board controls the agency circuit of power for most matters. Strategic matters are determined at full partnership meetings but the Executive Board has better access to information than partners. Nonetheless, partners are interested and although C3 was one of the most managerialist firm that was visited there is still tension between the lawyers and the managers. C3’s Finance Manager reflects on the real position of the firm’s GM, who is a specialist manager. As he does so he reveals that the firm is trying to suppress partner involvement.

Ah, W is more a General Manager than a CEO. We've still got a fair amount of partner involvement, although it’s being suppressed. We're trying to, well I've been trying for the last three years to get them out of the day-to-day management and let the managers do what managers do. I mean, we've been employed for specific tasks which is myself, I mean, we've got a professional marketing person, I.T. staff, library staff, accounting staff, as well as W and myself, who've all been employed for specific tasks. Most of us having professional qualifications and want to get on with doing with what we do well and not let people who really don't know anything about what we're doing, in the most part, get involved in it.

The firm is tightly focused and has a limited but very influential customer base. Its relationships with customers is intense as it shares information and technology access with them. Its Senior Partner, M, is a member of the Council of the NSW Law Society and he and his partners are well connected with legislators (whose Parliament is in the Macquarie Street mentioned below). Insurance lawyers face rapidly changing legislation and reducing award conditions; consequently this leading firm spends effort to represent its views and receive information quickly that "it can share with its people", who are staff and clients.

Um, well, we lobby, lobby hard. I mean, that's probably where M comes into it, to a lesser extent, D. M on the Law Society and he's on all those other committees and stuff and that's influential and we, I think we lobby better than most other firms. And that's another secret to our success, is that our clients love us because we know what's going on up in Macquarie Street before many of the other firms know about it. I mean,

39 Paradoxically, an equal partnership can be seen as intolerant. As partners share profits they expect each partner to contribute to revenue more or less equally.
most of the other firms they read about it in the Herald the day after it happens. And that's why we've got a seminar going on Monday and we're going to be first out of the blocks and that's what, you know, we pride ourselves on. As soon as these amendments came through, as soon as we found out that piece of legislation, as soon as it was set in concrete, right, let's go. Let's get the seminar done, so let's be the first to tell our people.

Within the agency circuit the Executive has control, particularly when it comes to daily business affairs. This appears to be increasingly the case in the social integration circuit also where the insurance partners are contesting control with the commercial partners. During the research this contest was taking place formally and without apparent de-stabilisation of the firm. This topic is investigated more fully in the report of the second data collection in Chapter Six. Within the firm its managerial coalition of Senior Partner, Managing Partner and General Manager dominate the system circuit. The firm is very influential and well known. Its spectacular growth has given it a special cachet within the external system integration circuit and it is a likely source of social innovation transmission.
Chart 4.11  Firm C3 and all Elements

Firm C3

- Attitude to Change
- Innovation
- Systems/People Orientation
- MBP/P2 Orientation
- Financial Return Orientation
- Specialisation
- Leadership
- Strategic Planning
- Quality Management
- Marketing Focus

0 1 2 3 4 5 6 7 8 9 10
ORGANISING MODE OF C3

C3's elements inter-permeate each other supportively, consistently and produce an organising mode that is coherent. There is tension within the social integration circuit of power. The identity of the firm, indeed its continuation as a combined insurance/commercial firm is in debate. Nevertheless, the firm is handling the matter in such a way that commercial partners realise that their own interests are served by recognising that the firm is chiefly and insurance business. The insurance partners realise that they need the buffer that a commercial practice provides them against possible statutory reduction of their market. It is likely that the firm will recognise these things and resolve the tension\textsuperscript{40}.

The firm is managed strategically and the firm capably manages this crisis rapidly, effectively and without losing commercial direction. It achieves this through the dominant influence of its managerial coalition and managerialist systems. C3 is coherently organised and closely approaches the ideal type of Managed Professional Business.

\textsuperscript{40} The outcome of the negotiations and strategic planning was to change the firm's mission, recognise its insurance nature but also to increase its commercial business by seeking growth through acquisition.
Table 4.10 Elements of the Managed Professional Business and C3

<table>
<thead>
<tr>
<th>Element</th>
<th>Criteria</th>
<th>C3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interpretive scheme</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Effectiveness</td>
<td>Management</td>
<td>Intensely emphasised</td>
</tr>
<tr>
<td>Efficiency</td>
<td>Client service</td>
<td>Intensely emphasised</td>
</tr>
<tr>
<td></td>
<td>Competition</td>
<td>Intensely emphasised</td>
</tr>
<tr>
<td></td>
<td>Marketing and growth strategies</td>
<td>Clearly enunciated</td>
</tr>
<tr>
<td></td>
<td>Rationalisation</td>
<td>Regularly achieved</td>
</tr>
<tr>
<td></td>
<td>Productivity</td>
<td>Intensely emphasised</td>
</tr>
<tr>
<td>Systems</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Strategic control</td>
<td>Rationality: moderate analytical emphasis</td>
<td>High analytical emphasis</td>
</tr>
<tr>
<td></td>
<td>Interaction: more directive decision making</td>
<td>Intensely emphasised</td>
</tr>
<tr>
<td>Marketing-financial control</td>
<td>Specificity of targets: precise financial and market targets</td>
<td>Precise, planned and regularly reviewed,</td>
</tr>
<tr>
<td></td>
<td>Tolerance of accountability: low</td>
<td>Low</td>
</tr>
<tr>
<td></td>
<td>Time orientation: short and medium term</td>
<td>Medium term</td>
</tr>
<tr>
<td></td>
<td>Range of involvement: medium range</td>
<td>Medium</td>
</tr>
<tr>
<td>Operating control</td>
<td>Primary focus of involvement: professional standards, quality of service, planning, marketing and compensation</td>
<td>All of these are integrated by intense strategic management.</td>
</tr>
<tr>
<td></td>
<td>Decentralization- centralization: more centralization</td>
<td>Centralised.</td>
</tr>
<tr>
<td>Structure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Differentiation</td>
<td>Level of specialization: medium</td>
<td>Highly specialised</td>
</tr>
<tr>
<td></td>
<td>Criteria of specialization: professional divisions and functional difference</td>
<td>Functional divisions</td>
</tr>
<tr>
<td>Integration</td>
<td>Use of integrative devices: medium development of hierarchy and cross functional teams</td>
<td>Medium hierarchy</td>
</tr>
<tr>
<td></td>
<td>Use of rules and procedures: still emphasis on standards and quality but more rules generally</td>
<td>Very high, most processes are mapped and procedures codified.</td>
</tr>
</tbody>
</table>

C3 has adopted an organising mode that closely approaches the MPB ideal type. Its organising mode is coherent but there is debate within the firm as to dependencies of power. The debate has to do with interests of partners rather than preferred interpretive scheme.

FIRMS WITH SIX TO FIFTEEN PARTNERS SUMMARY

Two of the firms in the collection of firms at this size are competitors in their major market niches. One of these, C3, has adopted a clear strategy of cost leadership in its major niche and for the rest of its business relies upon focus. Although personal injury is seen as a declining market this firm has been able to enter and dominate it in
a period of six years. Moreover, it has used this vantage to gain wider business with insurance companies. It enthusiastically adopts a managed professional business organising mode, which is remarkable for a firm of this size. The other, C1, continues with a focus strategy centred upon clients that it has retained for decades and has been unable to solve the problem of decline in its major markets. In effect it is drifting. It uses a Professional Partnership organising mode but is dominated by its Managing Partner.

The third firm, C2, uses cost leadership and focus as its major strategies. Because of a particularly troubled history it is very conscious of driving expenses down and adopts fine technology, networking and tight managerial control to do this. It focuses upon medium corporations for commercial practice and links closely with these clients. It is dominated by its Managing Partner and adopts an organising mode that tends towards Professional Partnership.

Within this collection we find two very clearly strategic firms which adapt to change rapidly and one which seems incapable of adjusting to its new circumstances. Notably all three rely upon sophisticated technology to gain efficiency and it is argued by one of the partners interviewed that at this level of firm very fine technology is essential and becomes affordable. C1 is unchanging despite its threatened status and is in serious decline. C2 is recovering rapidly from a failed merger and is increasingly successful. C3 is one of the most successful firms in Sydney and is expanding rapidly.
SUMMARY

Chapter Seven has been reserved for major interpretations and conclusions for by then all data will have been set out. This chapter has detailed data for the smallest nine firms visited in the initial data collection and offered some interpretation of these data. Chapter Five sets out data for the largest six firms visited in the first data collection and Chapter Six sets out data for the second data collection. Nonetheless, it is possible to make a number of summary observations about the data so far and commence some themes that will be further developed in this thesis.

Because principals of firms have such varied, and sometimes unrevealed interests, it is difficult to say that this firm is more successful than that firm if one attempts to judge it by partner interests. For example, firm A1 is much more profitable and growing than is firm A3. Yet the interests of A3’s principal may be very well served by it s apparent stagnation in the market for his interests seem to lie more in the practice of law than the business of law. He is respected by professional peers and makes a comfortable though declining income. The same sort of thing could be said of several firms in the collection. However, if one were to judge firms' success by reputation, profitability and growth then certain firms within this collection are noteworthy: A1, B1, B2, C2, C3. Each of these has very clear strategy and explicit values that are espoused and enacted. Each has a coherent organising mode whereas all but one of the others have incoherent organising modes. The coherence of organising modes is a theme that will be developed.

Contextual issues such as history, size and environment are very important to the approach that the firm adopts to its business. The data reveal that underlying values seem important in the interpretation of context by principals of firms. For example, B1 so values operating as a professional partnership that it is willing to trade off efficiency to this cause, whereas C2 believes that it must first be efficient before it can practise interesting law. Yet both are explicit in their interpretations. Context and inter-permeation by values is a theme that will be developed.

Power is absolutely critical in the affairs of all these firms. It is not yet clear if the partnership structure, the professional nature of the business or size permits power to
be so obvious in its effect on the firms' workings. However, it is clear that power was particularly significant in the cases of firms A1, B1, B2, B3, C2, C3. In some the dependencies of power and the strategy of the firm seemed complementary, for example A1, B1, C2. Yet in other cases the more powerful could be seen as delaying the firm's growth, for example, C1. It is striking how much overt power is wielded by Founding Partners and how important leadership is in the success of firms. Power circuits is a theme that will be developed.

The following chapter sets out data for the largest six firms in the collection.
CHAPTER FIVE:

THE DATA FOR FIRMS WITH MORE THAN FIFTEEN PARTNERS

It's just that in a partnership, you've got, in our case, 130 proprietors who want to make every decision. The structure is just too cumbersome. This firm has certainly been inexorably moving away from an amateur management to a professional management. (Managing Partner E2)

The whole thing about being a professional is the ability to be in control of your own destiny and your own life and that's one of the attractions of being in partnership that you can control what you do. You can be an individual. They're the things that do give rise, I think, to creativity, innovation and quality from lawyers, but you've got to trade off those freedoms if you like, those professional qualities, against competing in a commercial environment in a large organisation. I'm not saying necessarily that a partnership is necessarily a bad thing, but it does inhibit you in terms of managing and going forward, but on the other hand, a partnership structure does allow you to have those other intangible qualities that is the reason we're here. We have probably all sacrificed a certain amount of income to have the freedom to practise the way we want to practise. (Managing Partner E2)

INTRODUCTION

The first collection of data for this thesis involved fifteen legal firms in Sydney in which interviews, observations, document collection, and feedback meetings were held. This set generated interpretations and conclusions but also identified three firms that were revisited and deeply analysed. This chapter continues the presentation of the initial set of data and presents data for the largest six of the firms visited.

This chapter follows the format of the previous chapter. Its first section sets out details about the data collection: number of partners and staff, governance system, strategy, types of planning, technology in use, marketing techniques, quality system, and challenges identified by firm’s principals. The second section presents, in narrative form, data on individual firms. Comments are made about the organising
modes adopted, how closely these approach ideal types and the circumstances of each *stratum* of firms.
<table>
<thead>
<tr>
<th>Firms</th>
<th>Governance &amp; structure</th>
<th>Grand strategy type</th>
<th>Planning</th>
<th>Technology</th>
<th>Marketing</th>
<th>Quality System</th>
<th>Challenges to firm and profession</th>
</tr>
</thead>
<tbody>
<tr>
<td>D1</td>
<td>Elected MP. Weekly partner meetings</td>
<td>Focus</td>
<td>Led by MP</td>
<td>The latest.</td>
<td>Tightly focused.</td>
<td>None.</td>
<td></td>
</tr>
<tr>
<td>D2</td>
<td>Full time MP. Executive Board. Monthly partner meetings</td>
<td>Focus but minor.</td>
<td>Adequate</td>
<td>Retention of customers.</td>
<td>None.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>D3</td>
<td><strong>29 partners, 51 legal, 80 admin.</strong> Medical defence, Insurance litigation, entertainment, banking and commercial, property. Elected Board, non-lawyer GM.</td>
<td>Cost leadership/ perhaps focus</td>
<td>All items on survey.</td>
<td>Linked pcs</td>
<td>Pc,cf,n</td>
<td>Embryonic QIL.</td>
<td>Customer retention, capturing clients leaving other firms. Changing public perception/choice maintaining respect for profession, capturing this change in attitude and using it to advantage of the industry.</td>
</tr>
<tr>
<td>Firms</td>
<td>Governance &amp; structure</td>
<td>Grand strategy</td>
<td>Planning</td>
<td>Technology</td>
<td>Marketing</td>
<td>Quality system</td>
<td>Challenges to firm and profession</td>
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</tr>
<tr>
<td>E1</td>
<td>99 partners, 359 legal staff, 416 admin. Staff, corporate commercial specialist, National Managing Partner, elected Board,</td>
<td>Focus</td>
<td>Mission statement, strategic plan, business plan, management accounts.</td>
<td>Up to date but to be replaced.</td>
<td>Partner contacts, client functions, newsletter, Client Care, quality management.</td>
<td>QIL as adapted by E1.</td>
<td>Maintain present income levels, expand into Asian practice. Manage global change and meet competition from accounting and international law firms, expand the traditional advisory role and broaden commercial advisory role.</td>
</tr>
<tr>
<td>E2</td>
<td>120 partners, 360 legal, 495 admin. National Managing Partner, Executive Board, Non lawyer CEO and Finance Manager</td>
<td>Differentiation</td>
<td>Mission statement, strategic plan, business plan, management accounts.</td>
<td>Up to date and improving.</td>
<td>Partner contacts, client functions, newsletter, Client Care, quality management.</td>
<td>QIL</td>
<td>No comments offered.</td>
</tr>
<tr>
<td>E3</td>
<td>278 partners, 766 legal, 1269 admin. Corporate banking, litigation, insurance. Property, EIR, Construction, Planning and Environment Elected Board, Executive Board, managing Partner, Monthly partner meetings MP has professional training in management</td>
<td>Differentiation</td>
<td>Mission statement, strategic plan, business plan, management accounts.</td>
<td>Linked pcs up to date.</td>
<td>Marketing plan and marketing manager plus partner contacts, client functions, newsletter, Client Care, quality management.</td>
<td>ISO</td>
<td>Keep culture, develop existing base. Credibility and globalisation.</td>
</tr>
</tbody>
</table>
FIRMS WITH SIXTEEN TO FORTY NINE PARTNERS

CASE D1

Contextual Constraints

This firm is specially noted for its tight industry focus. Its founding partners decided to focus on the communications industry in the mid-1980s. This was an economic period of decline for most industries, except communications. This industry is oligopolistic, dominated by a few large corporate players, and at that stage communications law was done for these corporations by the mega firms as part of their typical corporate focus. Therefore communications was not seen as a specialty but as a sub-set of corporate law. The founders worked within medium sized corporate law firms when they decided that they would establish their own firm and adopt a tight focus strategy. The firm's managing partner, G, reflects on that time.

Yeah. We grew in a time, we had rapid growth in a time when there was contraction everywhere else. I think that's probably typical of a lot of industries, really, where you have one or two dominant characters and have a new player come in and they'll be able to take some advantage of the dynamics that are going on there. What happened with us? It's going back. When we set this firm up, T and I, had been sort of litigators with more recent corporate experience. We were both partners in what was then called S and we left there and set this place up and we decided in that first year that if we were going to have any sort of success, using our existing areas of expertise, the competition was too tough and we were never going to be able to compete with the major law firms.

We wanted to have a commercial practice. We wanted to have a serious, strong, good practice. We didn't want to have a rats and mice practice. So we thought about where things were going to go in the future and we, um, at about this time a bloke, L, who'd been a Partner at S and had done some Telecoms, he'd been a friend of mine and we started talking to him and the three of us, he said he'd join with us, the three of us agreed that the move was in communications and we then decided we would focus all of our marketing and all of our developmental energies and what money we had on developing a premier communications practice and I know this is not a marketing exercise, but I think we, this would be an unchallengeable statement, we have the premier communications practice in the country today.

The firm now has 17 partners, 45 lawyers and 150 administrative staff. It has enthusiastically adopted technology and comfortably uses multi media to deal with its national and international clients. For over four years it has had a partner and staff
operating from Hong Kong who participate fully in the affairs of the firm, using video-conferencing, email and the like. Its major market is Australia but it does have interests in USA and in South East Asia that demonstrate its capacity to operate off shore. Its Managing Partner traces some of this growth to the industry focus and the capacity to attract top quality lawyers to join it from the mega firms where their talents were not realised.

The reason that we grew was this, the large law firms kind of knew about it but were much slower to move than we were, had people in them that had expertise but weren't devoting all of their energies to it, it was a bit piecemeal, didn't realise how fast it was all going to happen. And we then set about attracting lawyers who were interested in it, but also partners from other firms who were interested in it, and so they came and brought a lot of the practice that was sort of emerging or existing.

So it was, I suppose, developing an industry focus and developing expertise and also at a time when the market was becoming more cynical about traditional, going to the traditional shops. We were able to exploit that as well.

In the first four years the firm grew rapidly but its next five years was spectacular, for by then it had developed the expertise and the networks. It was a small, smart, lucrative, attractive business.

We deliberately went out and worked out who was going to be the most likely winner in the bid for the second carrier licence\(^{41}\) in telecommunications and we talked to a lot of the players and we thought, we'll act for them, they were happy and they, actually one, that was Bell South Cable and Wireless and we acted for them.

From the time the government started talking about deregulation, we advised them about the approach that they ought to take in the regulatory debate. We advised them about how they should seek to impact the telecommunications competition regime and we acted for them and so was born Optus and Optus has continued to be, you know, a very key and important part of our success. And we have a large number of lawyers who just do Optus work. We don't do all of their, we don't do their corporate commercial financing work. The bulk of their work we do.

Yeah. We decided we wanted to have the premier communications practice in its broadest sense, which meant telecommunications, which

\(^{41}\) Australia had operated a monopoly in telecommunications. It was decided to legislate a duopoly and decide the second carrier licence by bidding. This duopoly is to be opened before 2000.
meant pay television, it meant the media, print and television and it meant information technology. So, and about forty percent of this practice is devoted to acting for clients like that, so that is a direct result of that strategy.

The firm is admired within the industry for its innovative practices and was most frequently nominated as innovative by respondents to the pre-interview survey form. Its Managing Partner tightly controls it. There are weekly Partners meetings that are relatively informal and monthly, compulsory, Partner Meetings at which Management Reports and Practice Reports are tabled. The firm is divided into Practices and Practice Group meetings occur regularly. The Managing Partner attends most of those although the Partner in charge of each Practice will now chair those meetings. Previously the Managing Partner chaired them all.

Well, I don't think it's healthy to focus too much of the leadership issues in one person, I don't think that's good for the organisation. So, I'm currently not Chair, but last year I was for the year and I wouldn't intend to take that, but I've done it twice now. And so that would be a partner and next year I'm intending not, I'm intending to have lawyers, a mixture of lawyers and partners chair those.

Another sign of G's control is seen in the performance appraisal system of the firm. Each lawyer is personally interviewed and performance appraised by the Managing Partner four times a year. Despite the apparent autocracy of G the firm is notable for its transparency of information to partners and staff alike and is considered by one of its Senior Associates as, "... a firm in which you will never die wondering. They are brutally frank but you know what is happening, where it is going."

The firm uses this openness to canvass ideas broadly, after which the Managing Partner determines strategy and seeks its endorsement at Partnership meetings if required. G introduces a strategic concern that the firm is currently considering.

Foreign law firms coming here and they might come and meet you and have a talk about something, I might report on that at those sort of meetings. There's not a massive amount of actual, hard planning, marketing planning happening at those meetings. That happens elsewhere. The firm basically divides into three groups - communications, litigation and corporate and commercial - And those partners and the staff in those groups meet fortnightly and at those
meetings we talk about work flow, what's in, who's got no work, who's got, fortunately it happens, who's got too much work is mostly the conversation, and who, what clients, what work we think we're going to have coming in over the next month, who wants to do it, who's done what sort of thing lately. We have marketing plans that are committed to paper that contain action lists that require partners and lawyers equally to attend to. We don't tend to, we're very, we run a very open house here and we involve our lawyers, nothing about this practice that we don't involve our lawyers in except our finances.

The structure of the firm is influenced, even controlled, by the Managing Partner who says that he spends about 60% of his time managing.

Provinces of Meaning

The firm has its office in a very modern office at the fringe of the city's financial quarter near international hotels in a tourist precinct. It occupies three floors of this building and is furnished with expensive artworks of sculpture and painting. The furniture and the décor give an impression of artistic modernism designed to appeal to media clients. There is a subtle artistic emphasis to the décor that most observers would differentiate from corporate legal offices. This would seem to be both an expression of its Managing Partner's artistic interests and his intention that the firm is seen as different from the traditional corporate legal firms.

D1 has taken a leading role in *pro bono publico* work that represents liberal interests consistent with those of the arts community. For example it 'does law' for the Redfern aboriginal tenants' group currently facing eviction from the inner city terrace housing that it has occupied since 1973. It was instrumental in forming the Legal Clearing House that funds publication and distribution of social conscience legal reports. It recently funded the production of an edited version of *The Stolen Generation Report* for distribution to lawyers. The original report set out the record of Australian governments in policies that removed Aboriginal children from their parents, classified people by "level of aboriginality"²⁴², required Aboriginal people to carry travel permits and licences. The firm recently advised the Australian music

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²⁴² People were classified legislatively as full blood, half blood, and "octaroon" for example depending on "interracial breeding".
industry on de-regulation of the compact disc market. These works are illustrative of *pro bono* activities that serve as shapers of the firm's provinces of meaning.

Within the firm there is an expectation of excellence founded on a recruitment policy that brings lawyers and partners from other established firms to D1 in their search for attention, interesting law and rewards. Its Managing Partner assumes an apparent insouciance about managing this talent. His notions are simple: recruit the best, expect the best, measure peoples' performance, develop the best, get rid of the rest.

Um, you pick people who don't need to be stimulated. Yeah, they're all self-drivers. I would say they're all highly motivated. You actually have a culture of that and you say to people when they come here, you know, I had an interesting example of it recently, someone came here, one of the consultants who came, always trying to sell you lawyers, you know these? Industry that shouldn't exist in my view, but it does. It's parasitic. And shouldn't need to exist, but anyway, it does. And they said, oh, a lot of lawyers are concerned these days about lifestyle issues. And I said, well, fair enough but don't talk to me about lifestyle issues. You know, there's no sense in pretending. I said women who get pregnant take maternity, that's fine, we've set women up at home, we'd done that, but this, our clients, it's just not, this is not the place where you can go home at six o'clock. It just never will be, so, there isn't. I'm saying that because people have been, a lot of people like that environment and there's no room in this place for people who want to take a back room role here, they just don't happily fit. We've had a few, it just doesn't work. I respect people who want to do it, but I just found that it hasn't worked here.

The firm has a feeling of open encouragement within it that is supported by generous rewards for those who perform. All staff are encouraged to adopt their own projects that will drive the firm forward and discuss these with partners. If they are accepted as a firm project then extra funding and time recognition will flow to the staff member. One example of this was given by a Senior Associate who had been recruited from an international firm to strengthen the firm's corporate practice. He had "indulged in some techno stuff with clients" and developed a computing system for working much more closely with clients generally. The firm recognised this and him. He finds the atmosphere encouraging and much freer than his experience with the international firm.
Close linkage with clients is considered the *sina qua non* within this firm and several staff said that you can be forgiven for a lot as long as the client is central to considerations. The Managing Partner sees that attention to the client is central to the way things work within the firm, but it is an attention that is overseen by the Managing Partner who controls the marketing of the firm.

I think it's about kind of, getting people in, I mean, the same things that all firms do these days, you get clients in, you talk to them, you get people who are non-clients, you tell them about what your services are, you go down and visit them, but you just have, you develop an action list and this month we're going to do these things and you are not to make it too busy because if you make it too busy they'll all, nothing will get done and you try to make it not too ambitious and you've just got to go out there and it's just a question of having it simple. I don't think it's hard any of this, it's just having a bit of paper.

**Dependencies of Power**

The firm's circuits of power are dominated by its Managing Partner, G. Resources are allocated by him and the researcher was struck by the peremptory way he commanded staff and partners. There seemed to be no *animus* in this and it seemed accepted by others. For example, during the interview he was reminded that the researcher needed to talk to other people in the firm and although he had made no prior arrangements called firstly a partner and then staff to "come and talk about this research thing". He made it plain that they were to put aside whatever they were doing. All complied promptly.

The firm is very much known as G's firm. He explains that the power is centralised in him and he controls obligatory passage points for three reasons. First he is the founding partner. Second he owns majority equity. Third, he has always been the CEO, as he puts it, and the firm prospers under his leadership. This, though tight, maintains a degree of openness that is very attractive to partners from big firms from where they have been recruited. In the following excerpt he talks about these matters. He commences with comments about the firm's lack of a partnership agreement.

Yeah. So we don't have anything except what I carry around in my head, basically. I mean, it maybe a problem one day, but the thought of putting together a Partnership Agreement at this stage. Me and T control
it, basically. Well, he doesn't so much. No, he doesn't. He doesn't do as much as I do and that's just the way it's kind of developed and I've, sort of, always been more involved in the management side of it than he has. He's quite happy for that.

*JG But I mean, if you two have retained majority equity interest, that's really calling the shots, isn't it?*

Yeah, well, that's right. And then having someone who manages at the top of it, who's obsessive like me, make sure things happen. CEOs are always obsessive. They've got to be to. I drive people mad. It's a problem because people then, if there's a gap to be filled, people will happily let someone fill it at a management level because they just don't want to do it, so for someone, you know, especially, you're in a very privileged position if you're the founder of the organisation, but if you are people will let you, then what happens, it's not very interesting work. It's not intellectually stimulating work.

Despite G's protestation that management is not intellectually stimulating work he devotes about 60% of his time to it and closely attends to all matters. This will to power is exemplified by an incident that occurred during an extended leave that G took from the firm. The Managing Partner had installed a very tight performance appraisal system.

And what happens, we do that quarterly and then we have, and I look at those bits of paper, and I would then if it looks like a problem, I then go and talk to the person to decide that I need to keep an eye on this or what's going on here, and then in May or June I would review every lawyer in the place. I actually review every single person in the firm, in the place, it's a complete review, performance of every Partner last year, every lawyer and every person down to the mail room, and that's a hundred and fifty people and I was dead at the end of it.

The system is not innovative. Most corporate firms have systems of surveillance and development but D1 centralises it almost wholly on its Managing Partner.

There's nothing magical about it but it gets quite a bit of resistance at different levels. I require that to be completed. Some Partners disagree quite strongly with me about whether we should have a form or not. A lot of lawyers don't like having forms on their files. And when I went away, I had that system in place and the bastards, you know what they did? They reversed it on me. They said, oh no, we don't like these forms. So that was the first little tug of war I had with them to re-institute a system.
G reflected on his control of the firm that he considers is due to his success, leadership style and position of founder. He argued that firms that find long term Managing Partners who can still do good law are very privileged. Most firms turn over their Managing Partners regularly and the position is seen as necessary but non-professional, therefore temporary. This is one of the clear markers that this firm's organising mode tends towards Managed Professional Business. He commences his comments reflecting on partner retreats and considerations of whether he could ever be replaced.

Ah, no. Oh well, people have, sometimes when we have, we have a Partners, we sort of go out and spend a day together a couple of times a year and someone might sort of mention that, but it's never, it's always done in a joke and we just move on to the next agenda item.

It's almost impossible to ask of any person, though, because of some of the things that we've been talking about, 'cause you get turned over, you're not really identified as the leader, it's given to you grudgingly.

The social integration system of the firm is controlled by G who occupies all the necessary nodal points of the circuit. Effectively he domintaes the system integration circuit of the firm. The firm is so well recognised and its Managing Partner so well placed within the system integration circuit of power that it can be said that D1 exerts considerable power on the profession to accept its systems and transmit them within the profession. Its Managing Partner is a Councillor of the NSW Law Society and the NSW Law Foundation controlling committee. In this respect D1 must be seen as a likely agent for social innovation.
Chart 5.1 Firm D1 and all Elements

Firm D1

- Attitude to Change
- Innovation
- Systems/People Orientation
- MPB/P2 Orientation
- Financial Return Orientation
- Specialisation
- Leadership
- Strategic Planning
- Quality/Management
- Marketing Focus

0 1 2 3 4 5 6 7 8 9 10
ORGANISING MODE OF D1

D1 adopts an organising mode that approaches the Managed Professional Business ideal type. It has a centralised structure, tightly focused and reviewed strategy, values that are consistent with these but more importantly its circuits of power are dominated by its extremely influential, successful, energetic Managing Partner. It is coherently organised.

Table 5.2 Elements of the Managed Professional Business and D1

<table>
<thead>
<tr>
<th>Element</th>
<th>Criteria</th>
<th>D1</th>
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<tbody>
<tr>
<td>Interpretive scheme</td>
<td>Management</td>
<td>Intensely emphasised</td>
</tr>
<tr>
<td></td>
<td>Client service</td>
<td>Intensely emphasised</td>
</tr>
<tr>
<td></td>
<td>Competition</td>
<td>Intensely emphasised</td>
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<tr>
<td></td>
<td>Marketing and growth strategies</td>
<td>Clearly enunciated, known and reviewed.</td>
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<tr>
<td></td>
<td>Rationalisation</td>
<td>Regularly achieved</td>
</tr>
<tr>
<td></td>
<td>Productivity</td>
<td>Intensely emphasised</td>
</tr>
<tr>
<td>Systems</td>
<td>Rationality: moderate analytical emphasis</td>
<td>High analytical emphasis</td>
</tr>
<tr>
<td></td>
<td>Interaction: more directive decision making</td>
<td>Centralised in the person of the founding partner</td>
</tr>
<tr>
<td></td>
<td>Specificity of targets: precise financial and market targets</td>
<td>Precise, planned and regularly reviewed.</td>
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<td></td>
<td>Tolerance of accountability: low</td>
<td>Very low</td>
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<tr>
<td></td>
<td>Time orientation: short and medium term</td>
<td>Medium term</td>
</tr>
<tr>
<td></td>
<td>Range of involvement: medium range</td>
<td>Medium</td>
</tr>
<tr>
<td></td>
<td>Primary focus of involvement: professional standards, quality of service, planning, marketing and compensation</td>
<td>Within these foci marketing is most emphasised and centralised. These are integrated by intense strategic planning. Centralised.</td>
</tr>
<tr>
<td></td>
<td>Decentralization- centralization: more centralization</td>
<td></td>
</tr>
<tr>
<td>Operating control</td>
<td>Level of specialization: medium</td>
<td>Highly specialised</td>
</tr>
<tr>
<td></td>
<td>Criteria of specialization: professional divisions and functional difference</td>
<td>Functional divisions</td>
</tr>
<tr>
<td></td>
<td>Use of integrative devices: medium development of hierarchy and cross functional teams</td>
<td>Medium hierarchy</td>
</tr>
<tr>
<td></td>
<td>Use of rules and procedures: still emphasis on standards and quality but more rules generally</td>
<td>Emphasised.</td>
</tr>
<tr>
<td>Structure</td>
<td>Differentiation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Integration</td>
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The organising mode of D1 it is very close to the ideal type of Managed Professional Business. It has adopted this position strategically and has institutionalised practices
within the firm to ensure that it is dominated by its Managing Partner and this remains the case through time. Its principal is attempting to influence the regional legal professional system to adopt total quality management, which he sees as the ‘essence of management’.

The firm approaches Managed Professional Business in its organising mode. Its contextual constraints, its provinces of meaning and its dependencies of power are coherently managerialist.

CASE D2

Contextual Constraints
This firm has 25 partners, 40 lawyers and 80 administrative staff. It concentrates its efforts into the corporate commercial legal market and focuses on the finance industry for most of its business. It is a firm that grew very rapidly but then settled into a steady state. It currently is under threat due to the competitive tendering processes of financial institutions and the aggressive marketing of mega firms. It has responded very aggressively and whilst it has not yet decided a formal marketing plan it encourages its partners and senior associates to promote the firm to prospective clients and tenders very frequently for panel status with institutions. The firm has undergone several recent organisational incidents that have left it tentative in its actions and consequently lessen its strategic capacity.

Partner D, who founded the firm, had been the Managing Partner of the firm for ten years. During all this time he maintained a heavy legal practice load. He stood down from Managing Partner so that he could concentrate his energies on that practice. During the research interview he reflected that firms of the size of D2 need full time specialist management that he was unable to provide "as well as do law and stay healthy." Upon his standing down the firm appointed a non-lawyer as General Manager. The experiment did not succeed and as D puts it, the firm wasted energy and time "working at itself rather than the market." After a year the General Manager resigned under pressure from partners and D returned for a brief period as caretaker Managing Partner. When he had first stood down there was no partner who would take the role of Managing Partner. This time it was to take six months before a
partner agreed to take for three years full time commitment to the management of the firm after which he will return to his legal practice. This time, in D's opinion, less impetus was lost. He set the firm back on a course and the new Managing Partner, A, agreed with this course, indeed collaborated in it, prior to taking over. The firm's drift, as Partner P refers to it, had been noted by competitors and D2 had to spend "a lot of time mending fences with clients and staff". Systems too, had been neglected and whereas the firm had been known for its quick acceptance of information technology it had not kept up with the pace of change of the technology nor its competitors. At the time of the research interview, D2 was reviewing its information technology. Seven months later, during feedback interviews it had not concluded this analysis. D believes that the firm went into a period of relaxation after its "experiment with the General Manager", partners had been so distracted by the management of the firm they wanted to return their energies to their legal practice, "back into their comfort zone". H, the firm's Human Resources Manager, typifies this as being relaxed and comfortable after frenetic change. She had experience in a large chartered accountancy firm that changed very rapidly and strategically. She sees D2's position as similar to where that firm was prior to change. She reflects that partnerships are unusual to manage within but that the accountancy practice was comfortable in delegating change strategy whereas this legal firm is not. She has been recruited to adopt similar strategies in D2 but notes how slowly this is happening.

So I was used to the partnership environment which is most peculiar to work in because you've suddenly got twenty two, twenty six, however many bosses who have equal ownership. In the three hundred size firm I had to go through a change of Managing Partners from a very laid back, easy going to a real driver and I learnt an enormous amount of what I actually could do and didn't know I could do. He said, "Do it" and I went and did it somehow. And he managed change from a kind of laid back environment into a very positive firm, a totally different culture altogether. We had to manage that change as we went on.

Our group leaders were real leaders, they were managers in their own right. They were responsible for their own decisions. They had great call on Human Resources to assist them in achieving their goals. We had very definite briefs of what we were doing and we had a lot of inter-relationships with other managers within the firm, so that we were a team unto ourselves. So we were very strong, but it went from this, kind of comfortable little office and it was all sort of fairly relaxed to suddenly
we were all supporting this enormous drive into the future, which was
terrifically exciting.

The influential partners D, A, and P have decided a strategy that will make the firm
more corporate, or at least rely upon specialist managers to effect implementation.
Part of this strategy has seen A appointed full time to his role of Managing Partner; P
appointed deputy Managing Partner with responsibility to develop the firm's
marketing. D does not have any managerial role but is influential in establishing
support for the others. They have then appointed H as Human Resources Manager
with special responsibility to assist in the change process. The firm nonetheless is
moving slowly and disjointedly towards this organising mode.

Provinces of Meaning

D2 has its offices just outside the legal quarter at the boundary of the financial
quarter of Sydney's central business district. The offices are extremely modernist: the
interview and library floor are very large, built around a mezzanine, where the
research interviews took place. The room has a view over Sydney towards the
financial centre. Furnishings were plushly dark and there were several sculptures and
paintings that completed the modernist décor. Although the firm occupies several
floors in the building this was the only venue that the researcher attended.

The firm has been successful in recruiting quality lawyers from other large firms
with the promise that they will get better experience and more responsibility. The
firm is fairly even in its approach and, whilst it retains a traditional veil of secrecy
over partners' matters, it is able to work closely with senior associates and employed
lawyers. L, who is a senior associate recruited from a mega firm, typifies the firm's
approach in the following exchange:

Yes. I think that it's, I've always been very critical of people I've worked
with um, their failure to sort of recognise commitment going above and
beyond the call of duty. But say last night, just by way of example, we
worked on a transaction so we worked until 2 a.m. last night, I caught a
cab home with the Partner who I work for and as you get out of the cab
said, you know, I appreciate it, thanks very much for your help. And if I
was doing that at F it was unlikely that the Partner would be around, they
would have been gone, you'd work there 'til 2 a.m. and go home by
yourself and come in the next day and they wouldn't really care.

I think that it's sort of more, I don't know, maybe personal is the word, is
that in order to get jobs done, you have to draw on, people have to do
different things working here. Say at F if you've got a job or whatever,
you might have your tax expert, your stamp duty expert, your commercial
expert, your property expert, and you'd do a little memo to them and they
would all go off and they would all do their own thing. I think here it's
more likely that you're actually involved in a transaction or whatever, or
that they'd actually come and talk to you and work it through rather than
sort of, keeping that distance.

The firm sees itself in a nether world. It is neither big enough to be even near the Big
Nine, so it does not achieve the economies of size and scale that mega firms do. Nor,
is it small enough to operate as a boutique firm, reliant upon several big hitters or
associated talent. It has a sense about it of being in search for an identity. Currently,
it is energetically pursuing business amongst large financial institutions. Partner D,
believes that these institutions are not as price sensitive as some lawyers allege and
that medium sized legal firms that build relationships with the institutions' managers
and corporate counsel, will prosper. The difficulty is in convincing corporate counsel
that D2 has the talent and the size to provide a service that is excellent in quality and
personable. Several of D2's partners are published in the financial sector and
renowned for their legal practice and the firm attempts to build on these talents but it
has been unable to articulate a clear marketing strategy that identifies strengths.

'So, it's like we have to get a toe hold, we have to develop a relationship
with the client where they say, um, not only are they cheaper, but they are
better, or we feel comfortable with them, we don't think we're going to
get a better quality service from one of the big firms.

One example of the firm's efforts to build relationships with clients is secondments
to its clients, even though these are expensive. L, a senior associate talks about his
experience with such secondments. He believes it emphasises D2's service
orientation, yet the firm fails to capitalise on this as much as other firms do. He talks
of secondments to the Australian Securities Commission, of which he does not have
personal experience:
Um, not working for regulators, but with clients um, in keeping with this sort of service orientation, if a client says, we want someone seconded to us, you do it because if you say no, they'll say, oh okay, fine, and they'll find someone who will. And it's seen as a way of securing that relationship because they know you better, you know them better and hopefully there, it cements that relationship, so reduces that mobility, if you like, because it shows your commitment to servicing that client. I understand that there is a bit of tension about the value of that because you charge out basically that person and their cost, their direct cost, whereas if you look at the charge out rate of a lawyer, I think it's probably cranked up about, I don't know, four or five times what they actually get paid, in terms of what I bill to what I get paid.

Partner, D, recognises that there are questions of loyalty in such a process for the relationship is basically built with the individual lawyer as representing the firm. Thus the firm is exposed to a lawyer who may leave the firm for another during such a secondment and potentially take the client with her. The firm relies upon its partners to stay close to its lawyers as well as its clients, partly to combat such an outcome but also to develop the lawyer and the firm. It retains a sense of friendliness within the firm and open aggression outside the firm in an attempt to gain new clients in a market in which the loyalty of clients has declined.

I think that we're pretty aggressive in terms of getting work in on the basis of tenders and quotes and maybe that's a reflection on our desire to increase the client base so that there is, I think an emphasis on, you know, not getting ourselves out of any sort of potential tender work based on our prices and that we're willing to take losses, you know, try to develop a relationship, which is not always successful. I remember one client where, you know, we did quite a lot of work, I thought, and did it very well, did it very cheaply and they, and basically it never went anywhere. We were always getting these low paying, difficult jobs and I thought I was providing, like, a good service and I think they're dead, you know, it was a difficult client to service because their expectations I think were a bit skewed or maybe they just didn't have an appreciation of what we were doing.

Yeah. It doesn't necessarily have to be, sort of, in terms of when the market recognition, that the market recognises a particular Partner as, you know, a prima donna or the, as you say, the big hitter in that area. It's more that a client in the niche area knows that you know their industry, you know their legal concerns and so they're happy to use you.

The firm relies heavily on its traditional quality due to the professional template of the lawyer and most of its business is conducted this way. Its Managing Partner
wishes the firm to be more managerialist but the contextual constraints have made it difficult to move the firm quickly to this position.

**Dependencies of Power**

There is a contest within the firm at the present between a coalition that has tenuous control and wishes the firm to be managerialist and partners who are either disinterested or concerned to move the firm away from traditional ways. Its founding partner had been a strong leader and a series of changes had him back in charge of the firm prior to handing over to the current Managing Partner. The Human Resources Manager considers that the firm’s change program requires individuals to take responsibility for change but lacks coherent leadership. In the following comment she introduces a delightful irony by emphasising the word, I.

The Accountancy Partner I worked with previously was a driver. Like, he drove fairly relentlessly. A is very much your English gentleman. He is inspired, he is technologically minded, he'd never bully. So we have to turn around and manage ourselves to a large extent, which is fine, I prefer that.
Chart 5.2. Firm D2 and all Elements

Firm D2

- Attitude to Change
- Innovation
- Systems/People Orientation
- MPB/P2 Orientation
- Financial Return Orientation
- Specialisation
- Leadership
- Strategic Planning
- Quality Management
- Marketing Focus

0 1 2 3 4 5 6 7 8 9 10
ORGANISING MODE OF D2

The firm is undergoing a period of consolidation, in which its leaders must go "softly, softly" to ensure that partner support is retained according to D. Nevertheless, the market is so difficult that this period cannot last long if the firm is to retain its drive and competitiveness. In this time, the agency circuit of power is relatively unimportant but the social integration circuit is critical. The firm has moved some distance towards the Managed Professional Business ideal type in its organising mode but the elements are not coherent. The managerial coalition must have several recognised successes before it can seduce the partnership to return to a managerial experiment that has previously failed. The firm's impact on the systemic circuit of power is negligible as it attends to its own difficulties and the internal system integration circuit is contested.

Table 5.3 Elements of the Managed Professional Business and D2

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<tr>
<th>Element</th>
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<td>Confused.</td>
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<td></td>
<td>Rationalisation</td>
<td>Not considered</td>
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<td>Productivity</td>
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<td>Use of rules and procedures: still emphasis on standards and quality but more rules generally</td>
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D2 is incoherently organised in a manner that seems to be moving towards the ideal type Managed Professional Business. This may indicate strategic delay rather than prolonged circumstance and confirm the importance of timing in organisational analysis.

CASE D3

Contextual Constraints

D3 is a medium sized firm with 29 partners, 51 lawyers and 80 administrative staff that specialises in medical defence, insurance litigation and commercial services that are focused on the entertainment and banking industries. Its main business, medical defence, is well-supported by up to date technology and a system of careful value adding relationships with clients. Whilst this facet of the firm is growing strong, other facets are stable or in decline, with insurance strongest and commerce weakest. In this respect, it is a firm seeking an identity after previous strong growth and management. In the last two years it has admitted partners in the medical defence area and has, by this process, grown its customer base and expertise.

The firm has a system of governance based upon an elected Board of Partners that meets monthly to determine strategy and monitor the firm. For tactical management it relies upon a specialist, professionally trained general manager who is not a lawyer. The firm is structured around functional legal specialties and is establishing the notion that, "The lawyer shouldn't be running the business in a hands-on way. They can control the policy and they can control development of the business but I mean, I don't see the lawyers preparing budgets or trying to balance budgets or control expenses," as Partner U argues. The firm has not quite moved to that stage yet but has put several elements in place. The first of these is the General Manager who is delegated most tactical decisions by the Board with only a rare matter requiring the intervention of the Chairman of Partners. The second of these is a well developed, though now almost outdated, computing system that captures billing and other business details and feeds them back to partners after monitoring by the General Manager.
Our professionals are totally computerised. There's no manual time sheets used. They can differentiate on their electronic reporting whether it was an A. or D. unit we call them. A. are chargeable, D. are non-chargeable. Now the D., or non-chargeable, are quite obviously reviewed and why can't you charge that? Oh, because it was for x, y, z. There's not the ah, not the, the pressure to bill for all billable work which is, the differentiation there is, I mean, we're not going to, everything we do doesn't necessarily have to be billed, but everything that is intended to be billed, is billed, and so nothing slides out.

D3 was one of the first legal firms to enthusiastically adopt computing for business monitoring. This developed a familiarity with computing that was to provide it with a competitive advantage when it subsequently developed technology to inform and link its clients in medical defence matters. Whilst it was an innovator in matters such as these it has now settled into a follower role. Its management has been able to contain expenses, though not sufficiently to adopt a cost leader strategy. It relies on focus strategy, which, at best, is fuzzy, as the demand for its services fluctuate. Whilst representatives of the firm comment upon the decline of customer loyalty in the legal profession generally, it has recently lost major clients and aggressively targets the clients of other legal firms in attempts to convince these to switch.

Um, new systems, I think, ties back into innovation. Where we'll, I don't think we're leaders in new systems. To a certain extent, we're followers. That may be good, may be bad in that you learn by other people's mistakes, but you don't on the other hand set yourself out as a standard, so we're about the same there. Lower costs, I can only go on surveys and so forth that I receive and we're about average in that regard. Focused marketing, it's a, of late again, it's more and it's, I think as opposed to the past where it's more directed. Each division is looking, or targeting specific clients as opposed to a let's go and get the banking industry, let's target that bank, let's go in, we know we haven't done your work before, but did you know that we do work for these people?

As corporate customers appoint their own in-house counsel and call for tenders to establish panels of service legal firms this tension increases. The difficulty for any but the largest firms is to have the economy of scale and size sufficient to cover the overheads necessary to attract business from these groups and retain it. Senior Associate, C, captures the essence of this conundrum.

Well, I think clients that I deal with, more corporate type clients, I think expect probably greater efficiency, certainly greater cost effectiveness,
there's no doubt about that. I think that the days of a major corporate client having one firm of solicitors do its work is virtually over. I think panels are almost the norm and I think that's a real, I mean, I know there were panels five or six years ago, but I think it's become increasingly so.

D3 faces exactly these problems with its commercial services but is able to focus on the medical defence and rely upon its well known expertise and developed relationships with clients. Its current response to overcome the loss of commercial business is to pressure its lawyers to find new clients but this is not yet supported with a coherent marketing strategy:

Pressure to find new clients, up. Until recently I would say it would be about the same, but with work dying in various, not "dying", but coming to an end in various areas, I would say at the moment it would be more. Yeah, I mean, we have eleven divisions and the cyclical nature of all work changes, so in one of our divisions, I know that they've just finished a number of big matters and so now it's, we've got to go out and do some more. I mean, it was just coming in the door before, but now it's let's go past the front door and find some more. (GM, A)

Within the firm it has structured itself around legal specialties or practices that are headed by partners and support divisions such as, General Manager's Unit, Human Resources, Information Technology, Library. Within the operational units of legal practices there is a tendency to conduct affairs differently. This contributes to a sense of pluralism but denies the firm some of the economies and cross-subsidisation that a firm of this size might otherwise gain. The division that is performing best has been the quickest to formalise its marketing effort and its method of management permits openness amongst lawyers led by its partner, M.

Well, I might start with what we do as a division. What we tend to do with our marketing and networking has traditionally been relatively ad hoc in that there hasn't, I guess, been a global approach division-wise, like we know what's going on and it tends to have been farmed out to individuals for different tasks. For example, one of the people here looks after our helpful newsletter which we publish four times a year and a send-out to all our clients. And she tends to coordinate that and there's others of us who coordinate different marketing, things like seminars, golf days, whatever, with other clients depending on whose client it is, so it tends to be, it's tended to be a little bit ad hoc.
Due to efforts at Managing Partner level, marketing is becoming more structured. The medical defence division is the most successful and M, its practice head, has been recruited by the managing partner to the strategy of increasing management control. Senior Associate C reflects on recent changes:

More recently though, it's been much more structured in that we have a division meeting fairly regularly, every two or three weeks, and one of the things that is constantly on the agenda is marketing, what each person is doing within the division in regard to their clients or what type of marketing they're doing. Generally speaking, it's chaired by the division head who's M. He's a Partner. And what happens now is we tend to, therefore, discuss it at those meetings and that way everybody knows what everybody else is doing, but more importantly, it seems to be more structured now, the decisions are taken as a group as to what sort of marketing or what things we might target in the future, or we might discuss, for example, the associates and the Partners are constantly getting letters or requests from all sort of organisations to go and do a seminar or to do this or to do that and then we have to decide whether we think it's worthwhile doing.

Now often, if I get one of those requests, I'll take it to the meeting and say, "Look, XYZ Medical Association wants me to come and do this, what do you reckon, is it worth-while?" We'll take a decision about it. There are some hallmarking things that we do with structure and that is our helpful newsletter and advertising that we do in one of the medical journals and that sort of thing, they're structured and they go in on regular intervals. And those decisions are taken pretty much by the Partners and then I think, ultimately, by the Board of Partners, that is, the Board of Partners of the whole firm.

Despite these observations, C is very clear that the firm, as a whole, has not achieved a sense of integration which would seem to be a likely condition for any firm that does not control partners' practices.

. . . . but generally speaking, my view about this firm is that is doesn't cross sell enough, it doesn't, the divisions tend to do their own individual things, although there's guidance from the top from the Board of Partners, each division tends to do, in my view, tends to do its own marketing without a lot of consultation across the divisions.

The firm expects its staff lawyers to build client bases as well as 'do good law' but without an integrated marketing strategy this is fraught with difficulties. The partners
assess lawyers' performance informally but include reference to client bases in those assessments. Senior Associate, C, analyses the system of partner promotion.

I think if I mean, me as an associate, I think for me to achieve executive Partnership and then equity Partnership, I really need to be able to develop my own client base and I think the Partners in this firm expect that. And I think to some extent, that's a bit of a change in the philosophy of the firm, too. I think five or ten years ago, if you serviced a client of the firm well and the client was kept, then I think, generally speaking, you'd move up the ladder. I think these days, the expectations are greater; I think it's a combination of serving current clients and developing your own clients.

Well, I don't know whether there's a strategy in place yet, but certainly plans have been laid to have a strategy or protocol in place. It's something that I must say the firm's taken on board particularly in the last two years, because it is relatively top-heavy and it recognises that and I think it recognises that it wants its younger people that it wants to keep to be promoted and it realises that that if they don't get the opportunity, then they'll leave. So I think there is a real, I don't know if I'd call it a "strategy", but certainly there is a plan to try and ensure that client bases are increased so that younger people can progress.

During the course of the research the firm admitted two partners by promotion: C was one of them. The fact that both came from the medical defence practice probably indicates that the firm will focus more on this area but it is unclear as to whether it will reduce other areas.

The firm's context is heavily influenced externally by its strong network of clients and referral agents in the medical defence market, its growth service market. Internally, it is influenced by its attempts to structure matters more managerially, to rely upon specialist management and to resolve staffing issues in declining markets. Partner, U, reflects on the historical context of D3 in the following exchange. It is instructive that he refers to the General Manager as the Accountant and thus demeans the position to one of service rather than tactical implementation, even though he is a formal supporter of managerialism. In the following exchange he also uses the word, "underneath" in a way that demeans managers:

Um, it's funny. We've had a number of management instructions and I think the management structure changes and will continue to change because of perceptions of dissatisfaction about structure and ideas that
can be improved. Yeah, I mean, and with each new structure comes a slightly different way of doing things. My view about what's happened is that changes have been for the better because, to me, the best way for law practices is to have accountants like A handling that side of the business and letting the lawyers get on with finding work and doing the work and charging for it. But, and then let someone else chase the fees. So, whereas before we had an arrangement under which three elected Partners basically did A's job, one in particular did it much better.

I think so, and I think that, yes, it's a trend that I agree to because we're going to have people turned out underneath. There'll be people such as A and we have had one that didn't work out, a marketing person and we've now got a person who's been responsible for what they call asset management. Firms always had debt collectors, but she's a sophisticated debt collector, in the sense that not only is she there to collect the debts, but she's also there to watch the WIP.

U is convinced that the firm can only gain by increasing its specialist management but, in all his transactions, it is very clear that he sees these positions as subservient to professionals. He talks here about the firm's marketing and its lack of success in financial institutional tendering.

Yeah. At the moment, it's done on a divisional basis. Typically you might have an invitation to tender or an opportunity to tender. In that situation you will have one person, or two people who have the carriage and preparation of the tender, usually a Partner, but without the back-up of a non-lawyer. You might use someone, a secretary helping you, but she wouldn't have some of the marketing expertise like someone whose job is just to assist on a full-time basis like someone who can prepare tenders. Now, that's something that we sort of had, but never quite got off the ground.

But I think that the time is right. I think the mood is. I think the time is right to do that because it's such a big job doing tenders and it's increasingly hard in practice, you know, more and more clients are tendering work out to make sure that the work that's being done for them is being done in a cost effective way. So, yeah, I think, I mean, lots of other firms are doing it.

The firm is now in a period of analysis and incremental progression towards more managerialism. Its newer partners, like U, note that other firms are using more specialist management and see no objection to it. The Chairman of Partners has moved the firm to acceptance of such an approach however the firm's current crisis overrides structural strategy as several areas of its business sales are in decline.
Provinces of Meaning

The firm occupies several floors of a recently refurbished office block at the edge of the legal quarter of Sydney's CBD. Its furnishings are worn and due for replacement. Its office décor is dated. Desks and offices have the look of a government department rather than a corporate legal office. There is clutter and bustle throughout each office the researcher visited as well as the paths to them.

D3 realises that, particularly in corporate commercial law, legal services have become commodified. Firms attempt to differentiate themselves to capture market share. D3, ironically, like most of the sample which practise in this area, believes it can do this by adding value to the client and building relationships. The General Manager believes that this has affected the culture of the firm.

From my point of view, it's a change of culture to the customer, the client. Customers these days, customers because, I mean, I have a business background, I've always used the word customer, clients are more choosy, they know there's choice out there. Basically, as I see it, I mean, we, all legal firms are providing the same service. There has to be something that differentiates between organisations. Now, if that's, you know, a level of service, a level of follow-up, just the way they meet it and greet it, it's a bit more than just straight law, it's looking after people, looking after their interests, having the client or the customer feel as though they're special, that when they walk into the place, yeah, they're looking after me, they don't mind parting with the fee, although it's high, everyone says solicitors' fees are high, I think I'm getting value for money.

A senior associate, C, confirms this with specific examples of adding value and building relationships.

It's a perception more than anything because I don't know much about other firms. I think that while I still have some reservations, which we might get to about what strategies this firm could put in place. I think, generally speaking, over the last two or three years in particular this firm, whether it's done it in a collective way, I don't know. It may have been a bit more ad hoc than that, but I think generally speaking, there has been a real focus on what we can do to provide better and different services, what systems we can put in place that will provide better systems and services to clients. For example, being on line with clients on the E-mail
system and all that sort of um, those sorts of things, what we can come up with in terms of attracting new clients. I think people generally, they're pretty innovative about that. They haven't sat on their hands and said, well, we've got good clients so let's just service them and we'll be alright. And I think the firm has looked to new technology and keeping up with all of that um, we've had some problems with that but at least I think in terms of the effort and the thought that's going into it, it's pretty innovative.

Working more closely with clients, and locking them into the relationships through reliance on computing technology, provides a platform that permits the individual lawyer to build personal relationships with senior managers or corporate counsels. C refers to these services as expansive, which is a nice metaphor, for the services expand for both parties.

But I think there is a general approach in this division to offer a client more expansive types of legal service as it were. In other words, rather than strict perhaps legal work, for example, one of my clients, I recently did some submission work. Now, it didn't really need a lawyer per se to do that, it wasn't a particularly legal type document, it wasn't dealing with many legal issues, it was actually dealing more with health or social issues and all that sort of thing. It could have easily been sent to a consultancy firm or a marketing firm or whatever. But my client wanted my input into it, so we wrote it together. That's an example, I think, of an innovative service that we've offered that client, whereas probably five years ago they wouldn't even have thought of consulting their lawyers about that.

I think also it's a personal relationship thing. I mean, I've established a good personal relationship with the Chief Executive of that organisation and he, we take the approach of it being a partnership. I mean, it's a solicitor/client relationship, but it's also we treat it as a business partnership, as it were, to some extent, so that what he does is he feeds me a lot of information, not work, information, about the industry or what his company's involved in. Similarly, if I come across something that I think might be of interest to him, I send it to him. It might be an article in a newspaper or a TV show that I'd seen or something, or whatever, and it's that sort of thing, and then we tend to take, it becomes slightly, the relationship's a bit like you become an adviser as it were rather than just as a strict legal practitioner. So that if his organisation wants to make a submission on, I don't know, AIDS/HIV policy or something, he'd come and consult me about it, not just the legal aspects of it, but perhaps the social aspects.
D3 has attempted to institutionalise these beliefs by vigorously adopting quality management through the QIL program. Its General Manager believes that lawyers "...get so rapt in law, they forget the customer. Our system won't let them forget."

Such systematisation is seen as necessary as the firm grows. C, a senior associate, reflects on the firm's culture and how it has changed. In this exchange, and several others, the consistent theme is that the firm must get more organised but should not lose its friendliness.

Well, I think we're more, difficult to say, I think it's hard to pinpoint. Generally speaking, a very friendly, open environment and one of the things I liked about it is most of the new Partners are relatively young and, therefore, I could, there's pretty good communication and levels of contact between Partners and the other, and then associates and all the way down.

I don't think it's ever really been too much of an us and them mentality. I think what growing big has done though, is that no longer do you know everybody in the firm. You become terribly more sectionalised so that, to some extent, sometimes you're a bit of a firm within a firm. I think along with that's brought greater, well, brought heightened, I think, heightened rather than made it greater, but heightened pressures of budgets, billings, debtors, that sort of thing. I think it's obviously become more important because it would seem to me that the bigger you get, the greater your liability is and things you've got to do to fix it. So I think the culture's changed a little bit.

The partners and staff at D3 seem comfortable in talking about managing their affairs like a professional business and to that extent they espouse the values of managerialism. However they have not moved rapidly and the expression of these values can be seen chiefly in staff positions which are charged to implement a more managerialist regime. These implementation projects have, to an extent, been slowed by market changes that have threatened the firm. The intent seems clear but the action delayed. Partner U reflects on the culture of the firm and a general acceptance amongst partners that the firm should become more managed.

I think the Board is there to set the policy, much in the same way that Directors of a public company would lead or manage a business on behalf of shareholders. It still concerns me that there are, seems to be a lot of time spent by Board members on issues which could be resolved by an administrator rather than the Board. In other words, there seems to be a
lot of issues, there seems to be issues that are not policy issues. You know, there’s a lot of nuts and bolts stuff. I’ve spoken with the General Manager, Accounts Manager, Human Resources Manager so I’m getting some feel about this and there’s a consistency at those three levels about our need to push towards business-like approach. At Partnership level I think they’re very close to it. I think with older Partners there still seems to be an idea this is our firm and we don’t want someone to tell us how to run it.

**Dependencies of Power**

This firm is moving towards a system that is decidedly managerialist but the move has been delayed by threatening changes in its markets. Its Chairman, and most partners at Board level, are said to believe this approach is necessary, so that the firm can constrain expenses and focus its legal talent. The very threats that are distracting it from achieving this strategy are those that its partners identify that require it to be more managerialist: lack of loyalty from clients and increased competition. The firm could go forward on this policy but is delayed by its Chairman who wants to ensure that partners' support is ironclad and that any restructuring of the partnership is effected before too much investment occurs. Thus the power circuits are metaphorically dimmed to low by this powerful individual who has with him two other partners with managerial experience and a loyal and talented managerial staff. It is as if he has decided to choose the time at which quick implementation will occur and in the meantime allow some uncertainty in the firm.

Within the agency circuit of power the Board has delegated authority to the General Manager to attend to most tactical matters and, when a doubt arises, the matter is resolved by the Chairman. Thus the Chairman's coalition has control over obligatory passage points in this circuit. The social integration circuit has been affected in an evolutionary way as more younger partners are admitted who share the Chairman’s attraction to managerialism. Here too, there is pent up energy as younger partners and associates chafe for more systematising and management that is consistent with increased business gained through specialisation. At the systems integration circuit the firm is not influential as it has lost important clients and is seen by the legal fraternity as drifting.
Chart 5.3 Firm D3 and all Elements

Firm D3

- Attitude to Change
- Innovation
- Systems/People Orientation
- MPB/P2 Orientation
- Financial Return Orientation
- Specialisation
- Leadership
- Strategic Planning
- Quality Management
- Marketing Focus

0 1 2 3 4 5 6 7 8 9 10
ORGANISING MODE OF D3

The firm has an organising mode that is moving towards the managed professional business ideal type. It seems that this move has been strategically delayed by its Chairman. For this reason the firm's organising mode is incoherent and there is a sense that those in the firm await action that will consolidate it as one thing or another. Currently it tends towards MPB but retains trappings of a mode near P2 because of the interests of some partners. These are not yet in contest but there is a growing coalition of support that may commence this. Intriguingly, it is a question of timing. The firm's competitors are aggressively attacking its market and this increases the case for more managerialism, but its proponents delay until internal support is apparent.

Table 5.4 Elements of the Managed Professional Business and D3

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D3 is incoherently organised towards the Managed Professional Business.

**FIRMS WITH SIXTEEN TO FORTY NINE PARTNERS SUMMARY**

A partner at E1, one of the Big Nine of Australian legal firms commented that, "Firms of that size are neither fish nor fowl." This *stratum* of the industry has experienced the most decline in the last decade (ABS 1997). The notion that the firm either had to get much bigger or smaller was present at D2 and D3. Both these firms had lost corporate commercial business to larger firms and were concerned about the loyalty of customers, the prevalence of tendering and integrating their firms. D1 had none of these considerations due to its industry focus and integrating management.

The difference in this segment of the collection is also striking when one considers strategy. D1 is strategically intent, regularly reviews environmental conditions and is very successful. The other two firms, which are in decline, are searching for strategy that can match their contextual constraints.

Partners at each firm profess commitment to an organising mode that approaches the Managed Professional Business ideal type. D1 seems closer to this ideal than the others which are incoherently organised.
Chart 5.4 Firms with 16-49 Partners and all Elements

Firms with 16 to 49 partners

[Bar chart showing various categories and their corresponding values for firms with 16 to 49 partners.]
FIRMS WITH MORE THAN FIFTY PARTNERS

This size of firm is often referred to as a mega-firm by those in the industry. The largest among them comprise the Big Nine\(^{43}\). The research was conducted at three Big Nine firms.

CASE E1

Contextual Constraints

This firm has 99 partners, 359 legal staff, 416 administrative staff. It has an elected Board of Partners and is managed in its tactical affairs by a Managing Partner who is appointed by the Board. Although it employs several specialist managers all of these are subservient to partners.

It is one of the most established Big Nine. It is renowned for its excellence in legal advice and has a reputation for being a 'black letter' legal firm that tends to be arrogant in its dealings. The partners who the researcher interviewed at E1 are aware of this longstanding image and are understandably pleased with the accompanying image of excellence, for it is one that the firm promotes. Their tactical response to the arrogance charge is to encourage partners and staff to consciously build relationships with corporate clients. The firm has changed systems massively in the last five years but its governance remains conservative and relatively slow to change as there is the perception that E1 is the premier firm.

The firm experienced an international scandal three years prior to the research that still affects the perceptions of its partners and was mentioned by each partner interviewed. One of its partners at that time, P, who was based in London, embezzled A$6m from a South Pacific client which had moved investment funds into Europe by using the firm. P was subsequently convicted and is gaol in Australia whilst another case, under a different Australian State’s jurisdiction, proceeds. During the scandal the firm assigned its Managing Partner (at that time), K, and whatever firm resources were necessary to trace funds, block laundering of the funds, recover

\(^{43}\) Currently there is a Big Nine, however over the last decade there was a Big Six. It has only been in the last six years that the industry has accepted the notion of a Big Nine law firms and this varies from state to state. Even in NSW some, some normally from the Big Six, still use that nomenclature.
funds, sequester P's assets, assist criminal investigations, reduce partners' liability and protect the firm's reputation. He informed the researcher that the P Affair paralysed E1, cost partners hundreds of thousand dollars each and made the firm more reactionary than ever. It had a serious toll on his health and left him more convinced than ever that large legal firms need vigorous management, that lawyers need management education, and the liability of lawyers needs to be limited. Within the firm this affair was a catalyst to review risk management policy and process and to concentrate the firm on systems of control. In this matter he was assisted by, D, a Partner of the firm who reflects on the experience and argues that E1 saved its reputation and the reputation of the Australian international legal profession.

Well, it's no secret, E1 has had a particularly difficult time, but I think that, I think some quite positive things emerge from that and at times it's difficult for those of us who were involved, like K and myself, to find positive things because it was a very, very distressing time, but this firm went to enormous lengths to right the wrongs that had been done and spent an enormous amount of our own money in so doing at a time when a number of our colleagues and competitors around the community were perhaps enjoying watching us. And we, you know, moved heaven and earth, all round the world, and the fact that we had an international network was enormously valuable to be able to trace money in the early days and to get injunctions and to retain lawyers and that was a very, very demanding time. And I think as a result of that, we saved the, the profession benefited from that because we secured most of the money. Not all of it, but most of it. Yeah. And the Partners paid out millions of dollars of their own money.

The firm has amended its approach to quality management so that it incorporates an emphasis on risk management. Its Managing Partner forcefully reminded the researcher at the feedback interview that, although E1 was a member of the Quality in the Law (QIL) movement, it had substantially amended it to incorporate a heavy emphasis on risk management. All lawyers at E1 complete courses in risk management and the firm emphasises leaving audit trails, whilst recognising that commercial lawyers have a mercantile focus on completing matters and litigators emphasise maintaining scrupulous records against the day they will be needed in Court. This requires professional judgment for some matters are left unrecorded so that they cannot be discovered by a Court. Partner D sets out how this is being implemented in the firm and changing the context of E1.
Well, a lot has happened here about that in the area of risk management and I think it's been a very positive thing. All Partners and all staff have had to attend risk management courses and they're not just five minute affairs and they're very, I had one litigator work with the people who were involved in putting these together, to make them practical, not just theoretical rubbish, and I think we all benefited a lot from those and it was compulsory and I'm not aware of anyone who missed out on attending them and what was of importance to Partners was not necessarily of the same level of importance to the staff.

Some of the staff might have found it difficult to get in to see a particular Partner, that sort of a problem is a different one from looking at it through Partners' eyes. The level of information flowed from one Partner to another. The very large transactions where you have a team of lawyers, the need to have, somebody has to be captain/coach of the group, somebody has to make sure they know what the hell's happening, what are you doing. In larger transactions, that's a very real, logistical problem and the people, it doesn't affect me so much, it affects the commercial lawyers, but they're so often working under enormous time pressures, the client's screaming or the merchant bank is screaming for this to be done, that to be done, that the idea of them all getting into a room and saying, well, now, let's work out who's doing what, what stage you're up to, swapping factual information, how the deal is going to be changed. The theory is fine, the practical implementation can be very difficult. And that's not just this firm's experience.

D continues with this theme that risk management is difficult in large commercial firms whose clients demand that complex matters are completed extremely quickly. He also alludes to the different training and mindsets of commercial lawyers and litigators.

I know from our involvement in representing another firm, where they have subsequently been sued, that they have exactly the same problem, in two matters, two major pieces of litigation. So, I think that the risk management steps we are taking, they're very much in everybody's minds here at all levels and it's, you know, it's not just a one-off, so I think that's been a plus. I think the litigation, this highly litigious framework in which we're operating, I think it's going to take time to persuade some of our commercial lawyers who approach a matter differently from a litigator. A litigator always says, well, you know, what is going to go wrong with this and how am I going to prove that aspect down the track, that tends to be the way we look at it. Or, if I write this down and it's discoverable and seen by a judge, you know, am I making an admission? I mean, that's the way you're trained so it's understandable. Whereas a commercial lawyer looks at it more, let's get the deal done, let's not work
on the assumption that the deal's going to fall apart, just get the deal done and keep the client happy. So there's a difference in philosophy there.

The firm's focus is on corporate commercial law. It does not employ an industry focus and deals only with large commercial matters. This is an area of law that provides little differentiation opportunity. E1 would be recognised by its competitors as most excellent in legal quality but all of the Big Nine can claim that they do excellent quality law. To an extent then, the leader in a field such as this can be strategically exposed. E1 has maintained constant strategy focused on excellence and fine management systems and tends to react to competitors' actions rather than lead the market. Metaphorically one can typify E1 as a leading yacht in a regatta, whose strategy is to continue its course but cover any competitors that challenge.

Whilst Sydney is a large legal market, part of the context of corporate focus firms is that there are a limited number of clients and conflicts of interests can occur. The firm has an inter-practice review process to eliminate these conflicts but here too one can see differences between the commercial lawyer and the commercial litigator. Partner D explains this as part of his emphasis that the firm is changing due to risk management.

I think one of the constant problems of practice in a large commercial firm is the area of conflicts and I think here we have a pretty good system of dealing with conflicts. There's no perfect system because corporate groups tend to be getting bigger and bigger and more complex and they have a whole range of company names and range of industries in which they're involved. There is, again, I think there is a difference of philosophy here. The litigator looks at a potential conflict situation and walks down the litigious path as to, well, if we act in this and it blows up, here we are, we're going to be instructing our barrister to cross examine the Managing Director of that company, which happens to be a client giving this firm a whole lot of work, right? That's ultimately what's in your mind. The commercial approach often is, well, look, maybe we can just sort out this problem and settle everybody down and it'll all go away. And sometimes it will be able to be settled down and it will all go away, but often it won't.

The Managing Partner sees the firm's market challenges as international and inter-professional. Internationally the firm is growing its business in Asia and competing chiefly against UK and USA firms, against whom it has a cost leadership strategy.
based on the Australian dollar’s relative value to British and American currencies, transport and wage expenses.

I mean, we won some terrific infrastructure projects in Indonesia against those firms. We just missed out on one in Thailand that went to Freshfields, a U.K. firm, where we came second. In terms of positioning ourselves, we are, well, there are a number of factors at work - (a) this is our part of the world, we might not have a great cultural affinity, but we've got a geographical affinity and we understand more about what’s going on in this region than senior Partners based in London or New York.

They'd just be looking at a particular client without understanding the jurisdiction. Our strategy is to achieve our market access with joint ventures with local firms which we've done in Jakarta and in Bangkok. The U.K. companies come in relying on their work on capital markets to do work not considered to be local work, if you like, documenting transactions under English or U.S. law to raise funds in the Euromarkets or in the United States, where they may not really understand anything about the local environment, but they understand how capital market transactions run if it's going to be sold on the Euromarket or in the U.S.

Now the sort of work we're now bidding for, infrastructure projects in these countries, requires appreciation of what, how the local environment works. And so that's an advantage for us. We're much cheaper, which is a, you know, because our cost of living is cheaper, our incomes are lower than theirs' too, but the overheads that the U.K. firms have to carry to bring people out of London and the U.S. firms out of New York are much higher. Across the bench. as much as 50%. So, for a U.K. firm to get a large transaction like that, I wonder how they cost it. It must have been on a lump sum basis because if it was done on an hourly basis, there's no way they could beat us on price.

I think the other thing that people are starting now to observe, the U.K. firms particularly, are staffed in this part of the world by a whole lot of Australians and New Zealanders. So we're saying to people, you know, why pay an Australian at U.K. rates when you can pay an Australian at Australian rates?

Inter-professionally the firm is challenged by Accountancy firms who are better focused on business solutions and have moved aggressively into litigation.

The competition from the accounting firms five or more years grew in fairly narrow areas, but we now see, for instance, KPMG Peat Marwick, Solicitors, doing trade practices litigation, through a former Baker Mackenzie Partner who has joined them and there are particular circumstances as to why he left them and the way in which he's operating.
but we have an accounting firm doing litigation, which is a field that our colleagues thought would be the last field that they venture into.

And I think the Price Waterhouse, Arthur Andersen, particularly, and the others will follow put their stake in the ground that they're going to try and provide full service. We also see very significant inroads that the U.K. firms have made, particularly in South East Asia, where our firm particularly, comes up against the U.K. firms and we strike the U.K. firms and the U.S. firms bidding for project work in Australia and I think, both from the accountants and international law firms, that we'll see much more competition.

The firm has learned from these competitors and its context is causing changes to the way it processes matters and its values.

And as far as the accounting firms are concerned, I think that E1 is in reactive phase. I don't think we're undertaking a particular change of focus to meet the opposition from the accountants. I think they're just another pressure for us to be better and more cost effective at what we do and to get, I guess what we are trying to do is to have as much access to our clients as the accountants have had traditionally through their audit functions. So to provide more opportunity to be in clients' premises, working with them, formulating strategies so that they think of us and not necessarily the accountants when it comes to a legal undertaking. So we get to know more about their businesses and more opportunities of being with them although not necessarily charging for it, just to be first in the door process.

Although, the Managing Partner deprecates the power of accountants in the domestic market he does watch international developments very closely.

I mean, if there's a rapid development of the threat of the accounting firms, then it will be happening outside Australia as well and if the firms in the U.K. and Europe. If the U.S.'s response to that is to accelerate mergers, then you may find more groupings of lawyers that team up in response to, you know, Price Waterhouse worldwide or whatever. So there may be a movement to massive accumulation. From what you don't get from having the referral network of an accounting firm worldwide, we may get from a legal network. I don't think anyone wants that to happen in a hurry, so I think most lawyers would be saying, we're not in a hurry to initiate worldwide mergers. I think it's a question of can we continue to recruit the best people at university by offering a career with a law firm rather than an accounting firm at the moment?
The firm is in a 'hold and maintain' strategy in its domestic market, covering competitors and investing in technology to improve efficiency and client service. It is using a growth strategy in its international market.

**Provinces of Meaning**

El was the first large corporate law firm that the researcher had visited. Its ostentatious display of wealth was particularly striking. The firm occupies several floors of a modern tower, recently erected that is clad with granite and illuminated by subdued lighting, apparently modelled on a Chicago law firm. It occupies one of the few recognised masterpieces of architecture that have been built in this city in the last twenty years. The visitor first attends a floor with a mezzanine that incorporates meeting rooms and an enormous waiting area with floor to ceiling windows, overlooking Sydney Harbour towards Sydney Heads. Meeting rooms and connecting halls are hung with large original modernist art, and furnishing emphasises exposed timber. The researcher has visited this firm more than ten times but has never met anyone outside this area. Lawyers and staff are typically punctual, courteous and attentive.

The P Affair has caused a sea change in attitudes within this firm. In every other firm the researcher visited the tension between the ideal types, Professional Partnership and Managed Professional Business, was approached from the perspective of market pressures. This firm however, in the aftermath of the P Affair, focuses on liability. Whilst the partnership structure remains a feature of legal practice in NSW the firm will systematise its affairs and provide risk management audit trails. At the same time it encourages K, its ex-Managing Partner, to lobby so that laws and professional registration requirements change, and permit lawyers to operate in limited liability companies. K reflects on this.

At this stage, in particular we have major submissions before the Attorney General, legislative change all that. We've already changed it in Victoria. It has been changed in Victoria, and the Law Society has picked it up, but also we've made a submission on incorporation and it's highly likely that in 1998, or soon after, we should have the right as law firms to incorporate with limited liability in NSW. That's also happening in Victoria.
Partner J, who is a litigator with extremely conservative and traditional views, believes that the litigious nature of commercial corporate practice will convince those who believe that being a partner is inherent to being a professional that they can gain this status in a corporation. His argument is lengthy and melds notions that competition has increased with notions that customer loyalty with lifestyle changes. He argues that when matters "go sour" directors of client companies have a duty to litigate and litigation against legal firms has increased dramatically in the last five years in Australia at the same time that corporations have installed corporate counsel and tendered their work to panels of legal firms. He concludes that the drive to achieve partner status is lessened among younger lawyers and that it is these features that will cause the profession to innovate by becoming more corporate.

Well the most obvious problem with partnership is the unlimited liability which is a very real problem. Because what we're seeing is that young lawyers coming up to admission, to nomination for Partnership, unlike in my day where it was like becoming a school prefect, you know, it was the great honour and you were thrilled to be invited and in my day, you didn't really know what lay ahead, but you hoped that you'd get a bit more money and maybe a bigger office or something, but you didn't really know what, the detail about the internal workings of the Partnership. Nowadays, the nominees, they want to deal with a due diligence on the firm and I think that's largely successful and that's quite a detailed process now, I mean, given all sorts of data and little books and all that sort of stuff, and sessions with the firm's accountant, all that, and given the opportunity to ask questions about any existing claims or plans or that sort of thing.

But in addition, there is the word "lifestyle" is more and more prevalent. I mean, the younger, the baby Partners, are often married to other professional people and so they have the domestic pressures of, you know, well, I work too, so how can you be in the office 'til ten o'clock at night, I know you're busy. So there's far more domestic pressure, I think, on them than when I was in the same position and the, and it's also linked to the concern about joint unlimited liability so that in some cases, there's a reluctance, not everybody wants to be a Partner. It's not like twenty five years ago. It's not everybody's goal and the concern about liability and the concern about the expectations and the accountability of time and renderings.

This partner was deeply involved in the firm's prosecution of the P Affair. He is an experienced and very careful litigator, renowned for his conservatism, yet the P Affair had brought him rapidly to accept the value of a more managerialist approach.
to E1's practice. There is a sense of change within the firm but it is a measured,
resentful change. E1 sees itself as the leader of the Big Nine. A Managing Partner at
another firm refers to E1 as "a legend, in its own mind". It has taken a scandal as
large as the P Affair to make it change but it does so only after partners have been
consulted and convinced and its moves are incremental rather than radical. The ex-
Managing Partner of E1 asked the researcher whether the topic of liability had been
often mentioned and averred that if the sample included several large firms which he
named, it would have, as these firms had recently been litigated, "So the firms that
have had a hammering are very conscious of liability."

The underlying values of the firm emphasise excellence in legal advice and
encourage staff to be leaders in their field. E1's Managing Partner opines about the
firm's culture in the following extract and nicely captures the element of prestige that
drives E1.

I think that we first of all, value our commitment to the law, learning
about the law and being exponents of law and that we maintain high
standards as legal advisers and that we provide an environment where our
lawyers can work on important transactions, whether they're important
from a legal point of view or a commercial point of view, but our clients
tend to be the major corporates and international companies. These
projects themselves are important to the Australian economy. That we
give our associates an opportunity to learn a great deal. That we have a
proud history and we have a reputation in the market place which people
enjoy an association with by working with us.

The emphasis on prestige through excellence permits E1 to recruit very talented
lawyers. The partners then encourage staff to develop leadership in their field.

People are encouraged in their areas of interest to become involved in law
reform and being participants in consultative bodies, to continue their
education and so that they're regarded as being leaders in their practice
areas. Well, it's critical that you be regarded as a leader in your field. I
mean, I think this is something that's imbued in the place and, you know,
before one becomes a Partner it absorbs them and carries it on basically.
There's a tremendous amount of continuing legal education in the office,
within the firm.

As with every commercial legal firm E1 attempts to get closer to its clients but the
Managing Partner reiterates the core values of the firm. He recognises that people's
behaviour is more closely controlled than was the case five years ago. The firm has become more managed, more systematised but he recognises that the partnership ethos is still strong and no matter how managed the firm becomes it will require management by persuasion.

Well, ah, the way in which people behave is certainly constantly evolving, the way in which you interact with clients is evolving all the time. The methods of communication are evolving. But I don't think commitment to law and being regarded as a leader in your field changes at all, it's just, you know, the way in which you operate within the system changes and, for instance, it's no good being a leader in your field academically if clients refuse to work with you. So, the way in which you communicate, the tolerances that you allow for eccentric behaviour, have narrowed, but there still is a commitment to liking the law and continuing to be involved in law reform.

Well, the people, I don't know about future generations. Current generations are not prepared to adopt a corporate model where they're told, just because the decision happens to be the decision of the Managing Director, that's the decision that's going to apply, you still need to manage by persuasion.

He argues that tight bureaucratic control is inappropriate in a knowledge organisation that needs cultural commitment. He believes that values drive professionals and that a leader's task is to enunciate core values and ensure that the firm's strategy is consistent with those values but drive the firm onwards. Therefore, a tight bureaucratic culture would clash with these values.

And that's not an effective culture in this place and I doubt it's an effective culture in most professional partnerships. So, I mean, we talk about corporatising our approach and what that normally means is limiting the number of people involved in the decision, selling the decision is still a process that involves consensus.

Dependencies of Power
The P Affair came at a time when its then Managing Partner had vigorously corporatised the firm. He had driven its involvement with quality management, technology upgrades and legal education. From that position, and after the scandal, it was possible to drive El to a much more managed position. The Managing Partner who replaced K however has adopted a much more cautious policy and ensures that
consensus is built before action occurs. The firm is inexorably being driven to a more managed position but in an evolving rather than radical fashion. It has retained lawyers in all positions of power, unlike other firms in the sample that have appointed specialist managers. Its Managing Partner retains control over resources including appointment of staff. He controls obligatory passage points such as performance appraisal system, legal education, marketing planning. The social integration circuit is closely considered by this partner. He attends to building consensus, crops up that in many parts of the research interview.

Oh, well, at the end of the day, an Executive Partner, if you're actually trying to implement something that requires action by each individual Partner, it's easy to say, the decision has been made, and you cannot do X and Y. Now to actually get them to do something….!

This is a very conservative firm that has moved a long way towards being a Managed Professional Business but its partners are an involved and difficult electorate that requires attention. In this respect one can note that stakeholders have so much more presence and voice in a partnership than they do in a corporation. Therefore to move a conservative partnership to a more corporate approach requires close attention to the social integration circuit. In its recruitment, socialisation, and development EI's controlling coalition does this.

And I guess the thing that we've done is to try and encourage a much more collective approach. We did go through a period where people were focused on individual contributions. We actually changed our management accounting systems as presented to Partners month in and month out to show a collective effort. In our case, on a departmental basis rather than a firm-wide basis. And what we tried to do is to move the focus of management of our contributions, measurement of them, to collective units and in that way to manage the risks by having people work together to try and avoid the stresses of some people having too much work and some people not having enough and to try and develop a more collegiate environment. And I think we've been quite successful, at least in moving the measurement focus away from the individual to the collective unit.

The firm's prestige and reputation for excellence gives it purchase in the external systemic circuit of power. It has a policy of encouraging lawyers to involve themselves in professional activities and this develops a network of influence of EI
types. Its current Managing Partner is more focused on the affairs of the firm and has left systemic influence to others in the firm. However its previous Managing Partner has done prodigious work in attempts to implement quality management within the profession and to interest lawyers in ongoing management education. This push from such a conservative firm is noted by other lawyers and it is likely that E1's innovations will transmit within the profession.
Chart 5.5 Firm E1 and all Elements

Firm E1

- Attitude to Change
- Innovation
- Systems/People Orientation
- MPB/P2 Orientation
- Financial Return Orientation
- Specialisation
- Leadership
- Strategic Planning
- Quality Management
- Marketing Focus

0 1 2 3 4 5 6 7 8 9 10
ORGANISING MODE OF E1

E1's elements interpermeate each other supportively, consistently and produce an organising mode that is coherent. Its provinces of meaning still defer to collegiate professional autonomy yet its associates are tightly controlled. There is a sense that the size and circumstance of the firm has formed upper echelons which express visions of professionalism whilst others are managed by these partners. This could destabilise the organising mode of the firm if its lawyers were not so skilled at such dualism. One can interpret these elements against the criteria for ideal types provided by Cooper, Hinings, Greenwood, Brown (1996).

Table 5.5 Elements of the Managed Professional Business and E1

<table>
<thead>
<tr>
<th>Element</th>
<th>Criteria</th>
<th>E1</th>
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<tbody>
<tr>
<td>Interpretive scheme</td>
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<tr>
<td>Effectiveness</td>
<td>Management</td>
<td>Emphasised</td>
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<tr>
<td>Efficiency</td>
<td>Client service</td>
<td>Intensely emphasised</td>
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<td></td>
<td>Competition</td>
<td>Emphasised</td>
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<td></td>
<td>Marketing and growth strategies</td>
<td>Enunciated</td>
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<td></td>
<td>Rationalisation</td>
<td>Regularly achieved</td>
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<td></td>
<td>Productivity</td>
<td>Medium emphasis</td>
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<tr>
<td>Systems</td>
<td></td>
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<tr>
<td>Strategic control</td>
<td>Rationality: moderate analytical emphasis</td>
<td>Medium emphasis</td>
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<tr>
<td></td>
<td>Interaction: more directive decision making</td>
<td>Centralised in executive partners</td>
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<tr>
<td>Marketing-financial control</td>
<td>Specificity of targets: precise financial and market targets</td>
<td>Precise, planned and regularly reviewed.</td>
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<td></td>
<td>Tolerance of accountability: low</td>
<td>Low</td>
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<td></td>
<td>Time orientation: short and medium term</td>
<td>Medium term</td>
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<tr>
<td>Operating control</td>
<td>Range of involvement: medium range</td>
<td></td>
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<tr>
<td></td>
<td>Primary focus of involvement: professional standards, quality of service,</td>
<td>All of these are integrated by</td>
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<td></td>
<td>planning, marketing and compensation</td>
<td>quality, risk management and</td>
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<tr>
<td></td>
<td>Decentralization-centralization: more centralization</td>
<td>strategic planning.</td>
</tr>
<tr>
<td>Structure</td>
<td>Level of specialization: medium</td>
<td>Centralised.</td>
</tr>
<tr>
<td>Differentiation</td>
<td>Criteria of specialization: professional divisions and functional</td>
<td></td>
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<tr>
<td></td>
<td>difference</td>
<td></td>
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<tr>
<td>Integration</td>
<td>Use of integrative devices: medium development of hierarchy and cross</td>
<td>Medium hierarchy cross</td>
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<td></td>
<td>functional teams</td>
<td>functional professional</td>
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<tr>
<td></td>
<td>Use of rules and procedures: still emphasis on standards and quality but</td>
<td>teams.</td>
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<td></td>
<td>more rules generally</td>
<td>Medium procedures are</td>
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<td></td>
<td></td>
<td>codified.</td>
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The organising mode of E1 has recently moved back from the managerialist position adopted by its previous Managing Partner. This seems to be a political action by the current Managing Partner to calm the firm and project the impression that things have returned to normal after the extraordinary time of the embezzlement affair. The firm is coherently organised and tends towards the Managed Professional Business ideal type.

CASE E2

Contextual Constraints

This firm has 120 partners, 360 legal staff, and 495 administrative staff. It is a national firm with offices in several Australian cities and alliances internationally in Djakarta and Shang Hai. Its main office is in Sydney, which the researcher visited. The offices of its National Managing Partner and its Chief Executive Officer (who is a non-lawyer) are located here. The practice is broadly based. Its Managing Partner says it practices in "all areas except family law" and it has also developed associated business in consultancy and technology development. The firm focuses itself on corporate commercial activities and whilst it is broadly based this base needs to be understood in these terms. For example, if it were to convey property it would do so as part of a very large commercial activity with a major corporation.

An elected Board of Partners that meets quarterly and decides strategic matters governs the firm. It appoints an Executive Committee comprised of each Australian State Director who is also State Managing Partner, the Director for Papua New Guinea and E2's Chief Executive Officer. This Chief Executive Officer is a specialist manager who was recently recruited to the firm from a major management consultancy and has brought several senior staff with him. The CEO and the Managing Partner take tactical decisions under delegation from the Board. The firm prides itself on the diversity of its workforce, particularly its professional workforce and believes that this feature can be developed into a strategic competitive advantage. At the time of the research the firm had completed a strategic review and

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was consolidating its Australian business whilst extending its influence into South East Asia and China.

A notable feature of the firm's context is its approach to management. Its partners had agreed within the twelve months prior to the research to move to a specialist management structure in which the Chief Executive Officer and his staff chiefly provide implementation services for the firm's strategy but also prepared strategy papers for Board's approval. Prior to this it had used a structure in which the National Managing Partner was also Chief Executive Officer. Partner A reflects on these changes and the notion of partnership.

I guess, we've got a sort of fairly new management structure over the twelve months with C and the new directors that he's brought in and before then, the responsibility was really on the Partners. But, I think it's general. I think all the large firms are struggling with the Partnership structure in terms of a whole range of issues - remuneration, management - just taking a firm forward at the pace you need to take it forward, you've got all sorts of problems with the Partnership structure in getting the right decisions and making them quickly and effectively.

This development has been driven by the firm's current Managing Partner who believes that firms as large as E2 need specialist management if they are to move effectively within their markets. The firm was quite focused on the tension between professionalism and managerialism when the researcher first visited. Its Managing Partner is a most vocal supporter of specialist management both within his firm and in legal publications.

All we're doing is changing to meet market needs. The whole market place is changing, that's why we're changing to adapt to the requirements of the market in which we practice. Its just that in a partnership, you've got, in our case, 130 proprietors who want to make every decision. The structure is just too cumbersome. This firm has certainly been inexorably moving away from an amateur management to a professional management.

Nevertheless, he has a fine appreciation of the tension that such 'professional management' can cause amongst partners who are legal professionals. One should not be surprised to find an intellectual such as the Managing Partner capably juggling two apparently conflicting ideas. He does so as the research interview
continues and he returns to a favourite theme, but this time more reflectively. Previously he had specified the strategic drive. Here he recognises the obstacles to that drive and the potential losses that the drive may cause.

The whole thing about being a professional is the ability to be in control of your own destiny and your own life and that's one of the attractions of being in partnership that you can control what you do. You can be an individual. They're the things that do give rise, I think, to creativity, innovation and quality from lawyers, but you've got to trade off those freedoms if you like, against those professional qualities against competing in a commercial environment in a large organisation. I'm not saying necessarily that a partnership is necessarily a bad thing, but it does inhibit you in terms of managing and going forward, but on the other hand, a partnership structure does allow you to have these other intangible qualities that is the reason we're here. We have probably all sacrificed a certain amount of income to have the freedom to practise the way we want to practise. To have the freedom of practising the way we want to practise.

Lawyers are skilled at rehearsing both sides of arguments and these two exchanges represent the clearest example of the tension between managerialism and professionalism provided, from any firm, during this stage of the research.

The theme of professionalism was to recur at several interviews in the firm, indicating that it was a current topic of debate. Partner A saw the firm's structure as its single greatest challenge and technology as its greatest opportunity. Interestingly, he links strategic opportunities of services and technology, to markets.

Um, I think the single greatest challenge is the partnership structure and the single greatest opportunity is the use of technology for the delivery of legal services. There's an issue in raising sufficient capital to do some of the things that are going to need to be done, both in terms of technology, investment in Asia and other things like that.

The firm has recently reviewed its strategy after commissioning its Managing Partner and CEO to tour South East Asia, talk to allies and potential clients, and produce strategy position papers. They conclude that the firm can obtain new business in Asia that will build upon the firm's strengths of considerable corporate commercial expertise, based on what is, arguably, the best legal technology service for firms of this size in the Big Nine. To gain this competitive advantage the firm
must 'hold and maintain' its current markets and grow extra business in Asian markets, initially by alliances into which the firm may eventually buy. It therefore holds that its national business must be efficiently run and that the firm can differentiate itself on the basis of its diversity, managerialism and technological services. It has established an experimental business that is a form of legal management consultancy which "is seen as a complementary development rather than diversification". These things require the firm to be tightly focused and strategic in its actions to ensure that its Australian enterprise is as efficient as possible. The major drive to achieve this efficiency is specialist management, as exemplified by E2's approach to marketing.

Ah yes, there are very strong marketing strategies in place. Part of the new management structure is the appointment of a Director of Marketing and Strategy with the responsibility of, I guess, improving our winning record in relation to bids and tenders, improving our service to existing clients and strengthening the relationship. Well, I guess the bottom line perspective of the firm is growing profitability and I guess that's still going to be the greatest challenge because, as you probably know, there's much more pressure on charge rates now, there's much more competition for work, the existing clients put work up for tender. I think it's a given that everybody has, all the big firms have the technical skills and I don't think that's a differentiator any more between the firms, so that the biggest challenge, I guess, will be to maintain our profitability or grow our profitability in ever increasing, well I guess, in a more competitive world and legal environment.

Provinces of Meaning

The firm is located in a named building overlooking Sydney's Darling Harbour, Harbour Bridge and Circular Quay and is surrounded by several of Australia's largest Banks' corporate headquarters. It occupies most of this splendid granite and glass building and employs its commanding views impressively in the several client areas that the researcher visited. Its décor and appointments are typical of corporate commercial large legal firms in the Big Nine. Support staff greeted the researcher at each floor that he visited and he was given ready access to the CEO's office for the interviews.

At the time of the research the firm had recently embraced the practice of appointing specialist management to positions previously occupied by lawyers. These specialist
managers had already had an impact on the firm's province of meaning. Key performance measures had been determined for the firm and the CEO held a series of meetings with all of the staff at each State office to gain agreement that these were appropriate. Importantly, these meetings involved "all-in meetings, secretaries, partners, associates the lot" and displayed information about the firm that had previously been secret to partners. Consequently, the CEO regularly reports the firm's performance against these measures. This action is seen as symbolic of the all-in nature of the firm, all must contribute to the firm's goals, not only the lawyers. There is, according to senior partners and executives of the firm, an overall enthusiasm for this shift in focus. On the other hand, a lawyer interviewed at another firm volunteered that she left E2 because it was too managed and individual lawyers were not respected for their individual legal practices. It is anticipated that a major change to a firm's provinces of meaning will take some time to have purchase.

Executives in this firm typically misjudge the degree of acceptance of new values next are being espoused: however, the firm has moved rapidly and forcefully. It spent a lot of time gaining acceptance of the idea within the firm and when its Managing Partner acted it was with despatch. Specialist managers were appointed, policies decided and promulgated. Accordingly the firm can be seen as moving more towards a managerialist values system than it had previously. The move to codify the competencies that lawyers should have typifies this move, particularly as this project is being carried out by a specialist Human Resources Manager, who is not legally qualified.

The associates and lawyers, I mean, they're actually going through part of the H.R. strategies developing competencies for lawyers, I guess to give us a better idea of what we want from our lawyers and also how we can measure their performance. In the past, traditionally it's been hours charged and dollars billed and I guess that's the traditional way that all law firms have measured the performance of people. We're trying to extend that now because everyone, I mean, that's obviously important, but we need to recognise, for example, if somebody's writing some good precedents that's, you know, important work for the firm, or else they negotiated our lease in this building with Grosvenor Place, which meant we didn't have to pay somebody else to do it for us. And we need to recognise there's a lot of work, internal work as well, of course.
The Managing Partner considers that the firm must respect its existing values and move incrementally toward more specialist management. He accepts that this will take continued negotiation but the firm's existing culture will tolerate this.

I think that the culture here is the thing that differentiates us from our major competitors, is that we have a much more tolerant and diverse group of people here so that we've been very deliberate in our recruitment policies to get people who come from a range of backgrounds with a range of political interests, a range of ethnic backgrounds and a range of cultural and social backgrounds, so we've got a very good partnership in terms of the diversity of the people that we have and their tolerance for each other and tolerance for each other's beliefs. But, legislation doesn't drive these things. Market forces drive them. If you want the best firm, you've got to have the best people.

He believes that the firm must build upon this diversity and extend the ways that E2 "adds value to its clients". Culture is, for him, a starting point that can develop new solutions to customer problems.

Yes that's again been part of the culture of this firm is that we we're not a sweat shop. We try not to be a sweat shop that some of the other bigger firms have the reputation for being. We certainly believe here that as service providers, we need to become much more multi-disciplinary which means that we have to broaden our own skills out from beyond being traditional black coated lawyers, but also there will be certain types of projects where we will need to joint venture with other professions and there is any number of examples for that.

**Dependencies of Power**

The Managing Partner and his executives dominate the firm presently because it is embarking on new projects for which they have a mandate. The researcher visited the firm shortly after these matters had been agreed at National Partners' meetings and were being promulgated to staff. The strategies are seen as crucial for cementing the firm's position in the "Big Nine", retaining and attracting new partners. This coalition was operating with little opposition to these strategies at the time of the research and had very clear control of the agency circuit of power.

As the firm was undergoing change their efforts were also addressed to the social integration circuit and attempts were in train to gain control of obligatory passage
points such as lawyer assessment for partner admission, CEO's voting status, recruitment. The firm is represented in the external system integration circuit of power, chiefly by its Managing Partner who is most influential in the Law Society matters and controls its Best Practice program. This program builds on the total quality management approach implicit in the Society's Quality in the Law program but does so with less systematising, jargon and certification. He is a frequent outspoken contributor to the Society's journal and a member of its Council. If the firm is successful with its strategies it is highly likely that their innovations will be transmitted widely in the profession.
Chart 5.6 Firm E2 and all Elements

Firm E2

- Attitude to Change
- Innovation
- Systems/People Orientation
- MPB/P2 Orientation
- Financial Return Orientation
- Specialisation
- Leadership
- Strategic Planning
- Quality Management
- Marketing Focus

0 1 2 3 4 5 6 7 8 9 10
ORGANISING MODE OF E2

E2's elements interpermeate each other supportively, consistently and produce an organising mode that is coherent. It is a firm that emphasises diversity and strategy. Its Managing Partner is quite convinced that firm's of this size need to closely reflect the management capacities of their clients and to organise their affairs so that strategy prevails. He insists nonetheless that this should be done with proper respect for the profession's values and collegiality. The firm reflects these ideals in its organising. It is not fully integrated on a national basis and there are plans to move the Managing Partner to its Melbourne office to ensure that the firm does integrate around the theme of strategic managerialism with diversity.

Table 5.6 Elements of the Managed Professional Business and E2

<table>
<thead>
<tr>
<th>Element</th>
<th>Criteria</th>
<th>E1</th>
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<tr>
<td>Interpretive scheme</td>
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<tr>
<td>Effectiveness</td>
<td>Management</td>
<td>Intensely emphasised</td>
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<tr>
<td>Efficiency</td>
<td>Client service</td>
<td>Intensely emphasised</td>
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<tr>
<td></td>
<td>Competition</td>
<td>Intensely emphasised</td>
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<tr>
<td></td>
<td>Marketing and growth strategies</td>
<td>Clearly enunciated by specialist staff.</td>
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<td></td>
<td>Rationalisation</td>
<td>Regularly achieved</td>
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<tr>
<td></td>
<td>Productivity</td>
<td>Medium emphasis</td>
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<tr>
<td>Systems</td>
<td></td>
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<tr>
<td>Strategic control</td>
<td>Rationality: moderate analytical emphasis</td>
<td>High emphasis</td>
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<td></td>
<td>Interaction: more directive decision making</td>
<td>Centralised in managerial coalition</td>
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<td></td>
<td>Specificity of targets: precise financial and market targets</td>
<td>Precise, planned and regularly reviewed.</td>
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<td></td>
<td>Tolerance of accountability: low Time orientation: short and medium term</td>
<td>Low</td>
</tr>
<tr>
<td></td>
<td>Range of involvement: medium range</td>
<td>Medium term</td>
</tr>
<tr>
<td></td>
<td>Primary focus of involvement: professional standards, quality of service, planning, marketing and compensation</td>
<td>Medium</td>
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<tr>
<td></td>
<td>Decentralization- centralization: more centralization</td>
<td>All of these are integrated by quality, marketing and strategic planning.</td>
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<tr>
<td>Operating control</td>
<td></td>
<td>Centralised.</td>
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<tr>
<td>Structure</td>
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</tr>
<tr>
<td>Differentiation</td>
<td>Level of specialization: medium</td>
<td>Highly specialised</td>
</tr>
<tr>
<td></td>
<td>Criteria of specialization: professional divisions and functional difference</td>
<td>Functional divisions with multi disciplinary teams.</td>
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<tr>
<td></td>
<td>Use of integrative devices: medium development of hierarchy and cross functional teams</td>
<td>Medium hierarchy cross functional professional and managerial teams.</td>
</tr>
<tr>
<td>Integration</td>
<td>Use of rules and procedures: still emphasis on standards and quality but more rules generally</td>
<td>Medium, procedures are codified and standards (eg lawyers' competencies) agreed</td>
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E2 is coherently organised near the ideal type of managed professional business.

CASE E3

Contextual Constraints

This firm has 278 partners, 766 legal staff and 1269 administrative staff in Australia. Its major and founding branch, which the researcher visited, is in Sydney. It focuses on large corporate law and numbers major banks, insurers and corporations amongst its clients. E3's Managing Partner specifies corporate banking, insurance, litigation, property, construction, planning and environment as the types of law it practises. The firm is governed by an elected National Board that delegates authority to State Executive Boards upon which sits the State Managing Partner. The NSW Managing Partner has a national authority (like a gubernatorial reserve power), if required. The Managing Partner has professional training in management as well as law and was recruited to this firm from another of the mega firms in which he had been Managing Partner.

The firm has grown from 10 partners in 1981 to its current size. This was an intentional policy promoted by partner, B, who served as its Managing Partner for two lengthy periods. E3's growth strategy was to merge with firms of similar focus and culture and thereby gain economies of size and scale. This strategy was also in response to its competitors which had "gained a jump on it" by rapid growth through mergers that made them more attractive to merchant bankers. Their consequent referral of corporate clients to the "big four", as it was then, stole business from the original firm. As well as losing business, B saw that the firm was losing its future because it was unable to recruit talented lawyers to it. Thus the firm had to grow so as to respond to the industry's "urge to merge", to gain economies of size and scale, to remain competitive for business and lawyers.

In 1981, E3 was say, nine or ten Partners with a good client base and a good reputation, but the, what was then called the Big Four were three times their size in Sydney. During the course of the 70s those firms had trebled whereas firms like ourselves, (and others named) had not grown and the Big Four had really got a jump on the rest of us during the 70s.
The Big Four were grabbing the best clients, merchant bankers were encouraging our clients to go to them, it was a constant struggle because we didn't have the same size, we didn't have the same specialisation. So a few of us got the firm to recognise in 1981 that we had to change dramatically. We had to ape the Big Four to preserve our position, not just for clients, but also recruitment because the best people were going to the top, the Big Four, because they thought that's where the best work was. So we deliberately, in 1981, set about a program of merger, growth and specialisation and recruitment and I was on the Executive Committee in '81 and so we started the mergers. Now all these mergers were deliberate for this exact, those reasons that I said - to get the specialisation with the size and then we had to do the recruitment.

Now the firm is the largest in Australia, focuses on corporate business and is considered part of the "Big Nine". Partner B considers that the firm "lost its way" for a period during this rapid growth. "We started aping E1's arrogance because we thought that is the way big firms go on". E3's Managing Partner, C, is more temperate and argues that E3 had almost always been like that, "I've always thought of E1, both here and when I was in another place, as being nice guys." Recently, it had discussed the issue at Partnership Retreats and agreed to differentiate itself by concentrating on existing clients, building its legal talent and being easy to deal with.

I guess, first of all, an agreement which is almost universal in the Partnership that that's what we will focus on, our existing clients. Then a series of strategies which we use to focus us on those clients, which include relationship development strategies, providing them with information about who it is that's looking after them and how they're doing it and how to get in touch with them and what they should be expected to do and not to, preferential pricing for those clients, understanding, or putting time and effort into understanding what it is that those clients want, putting time and effort into understanding what those clients' businesses are about, all of the things that make it not just a one night stand but an ongoing relationship, secondments, we spend a lot of time seconding people to our major clients.

... if you get your client base right and you get your people base right, all else is bells and whistles. . . . If you've got your professional people right and you've got your client base right, you really don't have too many worries.

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44 A Sydney firm noted for its excellence in providing legal opinion and considered to be by some in the profession arrogant. In fact when one deals with As' they are not really different than any other mega firm but the myth prevails and it was probably to the myth that an interviewee at E3 referred when he called E1 "a legend in their own mind".
The firm has adopted a system of governance whereby its Executive Boards are delegated authority for most matters excluding major strategy and lawyers in executive positions are expected to manage others, some of whom may be partners. Its Managing Partner believes that such governance is the only effective structure for large firms and that there is no innate tension within such a scheme. He does identify that the institutional contextual constraints that force lawyers to operate as partnerships cause financial and liability problems for large firms.

...you've touched on the corporate governance aspects and I think they're what people usually have in mind. I mean, most intelligent firms have now delegated management to some sort of committee, it won't work if it's run by Partners in a large firm. There are other structural issues that I think are probably more important. I mean, fund raising financial structure is very awkward under a Partnership, liability issues are difficult under a Partnership and I think the dual role of Partners as, I guess, operators managers and at the same time, owners, generally creates some sort of confusion in their roles so I think the governance issues are only a very small part of the problem. The financial issues and the liability issues are far more significant.

The partnership is equal which implies directly addressing the performance of partners. The following exchange reveals that the firm's Managing Partner expects that partners will delegate such matters and act within the structure that they have settled without rancour.

We are going to see significant tensions building up and the only way you can address those is either by having differential profit sharing or by addressing the weak links. There is no other option. We've chosen not to have differential profit sharing because it doesn't fit with our culture, so we have to be very clever and conscientious about addressing the weak links. I mean, management has a responsibility to continually review and assess Partners. Partners have a responsibility to continually think about where they're going and what they're doing. Then you bring in the client relationship aspect, it's an absolute blatant stupidity to let a relationship depend and develop on one person, you must bring a team in, but clients generally like people, not teams, so you've got to get around that issue. So there are a series of little sub-sets that need to be managed in a thoughtful and concerted way.

*JG But C, my background is in corporations and I can see me managing some of those things in a corporation, but when some of the people I'm dealing with are co-owners of the firm, I can see that it's a very difficult thing.*
Not really. I mean, unless they're prepared to effectively delegate responsibility and authority, the place is going to fall apart and I'm certainly not going to stick around.

**Provinces of Meaning**

This firm occupies a building in the Centre of Sydney at the border of the legal and financial quarters. It sits next to what is arguably Australia's finest *Art Deco* building and copies some of that style in the exterior of its refurbished 1930s building to which it gives its name. Within the building extravagant furnishings continue the theme. The ground floor reception is rather grand and near pretentious but on the Partners' floors, and in the Board room, the furnishings tone down from the *faux Art Deco* gaudiness below. The furnishings and setting speak of stability and prestige.

E3 considers its culture to be a strategic matter that can be managed. Its partners and managers talk openly about the firm's culture being a major contributing element of the firm's strategic competitive advantage. When asked whether cultural compatibility of firms was considered during the round of mergers that grew the firm, Partner B responded.

No question. Everything else was subsidiary. I mean, we were novices. I mean, we didn't go off and get a management consultant to work this out for us. We essentially decided this ourselves, and there was only a few of us that really wanted to do it, the rest got carried along, but the approach we developed was that we would talk to these firms, we worked with firms. There was lots of firms we talked to and didn't merge with, but we talked to people in levels of seriousness, but the thing that we constantly focused upon was making sure that we met everybody and we talked with everybody long enough to reach a view as to whether we had a common culture.

As well as emphasising the notion that culture was a considered element of the firm this exchange also points to how strategy was moulded, "... there was only a few of us that really wanted to do it, the rest got carried along." Change projects must be broadly agreed but frequently are realised by influential minorities (Dunphy and Stace 1981). Values within legal firms do seem to be openly discussed. At least this was so in all the firms visited for this research and is reported by Hinings and Greenwood (1996) within their cases. Because ownership is shared with operation
and management any change must be broadly consistent with existing values, at least sufficiently to gain electoral support of partners. The wild card in any legal partnership is that partners can, and do, leave firms and when they leave they take with them both their reputation and their custom.

E3 had just completed a strategic review of its market position and perception when the researcher first visited it. A Partners' retreat had received a presentation prepared by Partner B and Manager C that suggested the firm could differentiate itself by close attention to culture, 'being easy to deal with', getting to know the customers' businesses better, building relationships\textsuperscript{45}. The presentation argued that this was recognition of what the firm already was but this persona needed to be emphasised and consciously managed. B talks about what the firm had become in the following extract.

> We ended up distinguishing ourselves from the others. We essentially developed a theme that we were going to be the big firm that had a different culture to the other four big firms. The strategy that we developed from talking to other firms was that we, our strategy was to have a Big Four firm in terms of size and specialisation, but a different, more compatible, better to work with type culture, so that when clients said, "Well what's different?", we'd say, what I'd just explained. I said, "Look, this firm has been deliberately created as a big firm, but it's full of Partners who have come from small firms and we have come together to provide that level of specialisation that they required, but essentially, it's a whole lot of people who still have the same attitude and ah, to clients that a small firm would have it's much more of a personal basis and you get much more Partner service, it's less of a corporate."

B argues that managing large dispersed professional firms demands management of meaning and that means attending to the culture of the firm. Both when he was Managing Partner, and now, he says that it was, and is, necessary to set strategy right, set customers and staff right, and clarify direction. You cannot manage tightly.

\textsuperscript{45} This position was subsequently endorsed by the Partnership. A consultant was employed to help the firm emphasise this culture and when the researcher returned for feedback interviews the consultants' recommendations were being implemented. During the second data collection this process is fully discussed.
And that's all the more reason to trust the culture because you haven't got
time (well, you'd know better than I would), you haven't got time to
spend your life talking to each other and reinforcing it.

The success of this technique is confirmed by a Senior Associate, MB, who talks
about dealing with customers and what it is like to do business in and with E3.

Yes, but people don't know that unless you show it, so you try and be
enthusiastic and I think that's something where we have distinguished
ourselves with some other firms, where they, they're either in an ivory
tower or they really just, they're just doing a job that they don't, they're
just going through the motions really.

JG Are there any systems in place to promote that?

We, once a year we have what we call our retreat where each practice
group, we call them (I'm in the corporate practice group), we go there for
a weekend and as part of that there would be seminars or lectures given
by Partners like B, just really saying the importance of how you deal with
clients. So I suppose that is a system. It is, it is. And I suppose it would
be things like, you know, even if we're rushed off our feet and we're
really terribly busy, you can be, I remember one phrase in particular,
"You can be short with your colleagues", you know, bite their heads off,
"but if the client 'phones you've always got to be slow" and have time for
them and you must always answer the 'phone, if you're there and you
can't say I'm too busy, you know, within reason, of course, you can say I
am busy now, but you can't say I'm snowed for the next three weeks and
not available, see you later.

The researcher was struck by the courtesy and directness of people within E3. All the
large firms were professionally courteous but the researcher's notes for the day of the
interviews comment upon the ease of contact that exists with E3. The reception and
the flow of referrals were expert. Meetings were punctual and carefully catered.
Small details, such as a phone and introductions for the researcher were attended to
with care. The Managing Partner confirms that this easy going, courteous culture
does not just happen. People are attracted to it and trained within it.

I think if there is a culture which people can recognise, maybe even if
they can't articulate it, it tends to attract to itself people of a similar
culture, so a very competitive organisation will, in my experience, tend to
attract very competitive people, a very arrogant organisation will
continue to attract arrogant people, and a sort of a friendly place will
attract friendly people. So I don't think it's a great mystery that cultures
develop. That process is something at the moment, as I said, that we're
consciously trying to accelerate, but you've got to have the basics there. I mean, we couldn't suddenly turn ourselves around and say, we will be an arrogant firm or we will be a rich firm or whatever other thing we might want to be because that's not the starting point that we've got. All we're doing, I think, is enhancing the starting point, rather than completely changing the starting point.

There's a process evolving now of overt management because we've decided that being good and easy to work with is something that can differentiate us in the market place, so we've finally, in the last couple of months literally, identified that as a differentiator. I suspect it's been there for a long time, but it's never emerged in a conscious sense as a differentiator. What we've said now is, we have to find, identify and promote a differentiating factor and that is what we've chosen and over the next two years that's going to be a very strategic policy implementation, rather than just something we just let happen. So it hasn't been managed to date, it's going to be extensively managed in the future.

**Dependencies of Power**

The firm is strategically managed by C and at the time of interviews Partner B and Manager C were extremely influential. Each of these emphasised that the firm needed to "do excellent law" but also manage the culture. This notion of managing the culture crops up frequently in interviews. The executive openly talk about culture as the integrating feature of their national strategy. Its Managing Partner reflects on the various offices that comprise E3.

So those relationships between those offices, I think, are the keys and one of the most important things we have to do is to, as well as developing a similar culture in those places and we have a common starting point, is to align the client bases in those places so that we're not acting for A.M.P. in New South Wales, National Mutual in Victoria, Colonial Mutual in Western Australia and somebody else in wherever. And that process, given that we're a series of firms that have come together over the last ten, fifteen years, is a process that I think should have been undertaken a lot longer and a lot earlier than it has been undertaken.

It's now a part of our strategic plan and an incidental part, of course, we're focusing on key clients, but we're saying, now let's focus on key national clients instead of focusing on key office clients and one of our jobs in Sydney is to get Melbourne, Brisbane, Perth, Adelaide, whatever, into the Qantas relationship, into the Westpac relationship, into the A.M.P. relationship, into the other relationships that are headquartered here. One of Melbourne office's important functions is to get people into the CRA relationship and the Shell relationship which, in fact, emanate from
Brisbane and Melbourne doesn't have a relationship, so you've got to go back one step - Brisbane have to get Melbourne into the head office and Melbourne then have to develop the head office relationship.... And that's effectively what is now driving 80% of our marketing effort rather than the totally parochial, this is my client, I will try and go and get more work from this client for me and my little group in Sydney. It's a much broader culture.

At Senior Associate level this control of the social integration circuit by the executive translates into a conscious way of doing business that emphasises the strategy intended. MB talks about, first, how he is enrolled into the social integration project, and second, how he enrolls others.

Well, I would say it's well balanced and there are frequent noises made that we're not interested in purely making money. I don't know, I always think it's easy to say when you're the person who's making the money at the top, but a frequent speech is made to the effect that what we want to preserve at this firm is, you know, the culture we perceive we've generated, and we have. If we get bigger, we want to maintain that and what we're not really seeking to do is just become a money making machine, so, and the integrity of dealing with clients is uppermost. But at the same time, everybody's expected to perform with their budgets, but I think, it's like it's balanced. I mean, it's not, I mean, no, coming from slightly the other way, no corners are ever cut in terms of taking a short cut with the working or to see, get the matter finished and get the bill. I mean, so doing the work properly is always paramount and that's first and then, I suppose, the benefits of the revenue flowing in a sort of nice and, I suppose they're expected to flow if you do the work correctly.

.... I try and pass on that same training culture, if you like, to them and again, I suppose there's two things, one is telling people that this is all, just generates things throughout the firm. You make very clear what expectations are. I think the second thing is, always sort of, lead by example. And again, I think it's something I've probably personally done naturally, but again, what I suppose I mean by that in particular, is if there's a major deal on and if you're the head of it, you can't leave it to somebody else and just disappear, even if you might like to. You have to really be seen to do the long hours, particularly if there's a deal on, you've got to be seen to be there and I suppose, in terms of hours, but also in terms of being equally enthusiastic about the deal. You've got to show you're interested. 'Cause I think, the key thing I found is you can't, and this is what everybody does, I think, you can't give somebody else the job and then forget about it and pretend it never existed.

Within the agency circuit of power the firm has delegated most power to its executive which controls resources most effectively. Within the social integration
circuit the partnership endorsed a strategy of differentiation which, through structuring and training, manages the meaning of the firm. This too is delegated to the executive. The firm is extremely influential and whilst it is seen by some in the legal industry as big, but a parvenu confederation, its latest strategy is designed to redress this perception and improve competitive advantage. Its Managing Partner has a huge reputation within the industry and it is likely that the firm can deeply influence the system integration circuit if this strategy is seen to be succeeding.

Its success will be judged on two fronts, economic and institutional. Economically the firm must consolidate its position in the Big Nine by business volume. This means enhancing existing client contracts. Institutionally there are many in the legal profession who are attracted to the notion of a big firm that is not arrogant and displays traditional courtesies. If E3 can be easy to work with it may enrol these into a movement to personalise corporate law and, as has been observed in several cases above, corporate lawyers are looking for a means of differentiating from competitors.

The firm’s organising mode is coherent and tends towards Managed Professional Business. Its Managing Partner had adopted the phraseology of the researcher when we met for our feedback interviews. At these I showed him charts of the firm (similar to that below). He noted that the firm "had scored 7 on the MPB scale. We will move that much more towards P2 in the next two years".
Chart 5.7 Firm E3 and all Elements

Firm E3

- Attitude to Change
- Innovation
- Systems/People Orientation
- MRR/P2 Orientation
- Financial Return Orientation
- Specialisation
- Leadership
- Strategic Planning
- Quality Management
- Marketing Focus

0 1 2 3 4 5 6 7 8 9 10
Organising mode of E3

E3 is a national firm that has rationalised its clients' list and reorganised so that it provide extra business services to assist these organisations. One can counterpoint it to E2 in this respect. Whereas E2 diversifies and operates almost like a multi disciplinary practice, E3 is more conservative and emphasises legal services as its principle for existing, and has rejected business streams that do not support this. The management of E3 believes that it can manage tightly but respects vision lawyers' values in such a way that it will differentiate itself from firms such as E2 or E1. It adopts an organising mode that is coherent within this strategy and is embarking on management practices that will tighten this coherence.

Table 5.7 Elements of the Managed Professional Business and E3

<table>
<thead>
<tr>
<th>Element</th>
<th>Criteria</th>
<th>E3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interpretive scheme</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Effectiveness</td>
<td>Management</td>
<td>Emphasised</td>
</tr>
<tr>
<td></td>
<td>Client service</td>
<td>Intensely emphasised</td>
</tr>
<tr>
<td></td>
<td>Competition</td>
<td>Emphasised</td>
</tr>
<tr>
<td></td>
<td>Marketing and growth strategies</td>
<td>Clearly enunciated by specialist staff.</td>
</tr>
<tr>
<td></td>
<td>Rationalisation</td>
<td>Recently achieved</td>
</tr>
<tr>
<td></td>
<td>Productivity</td>
<td>Medium emphasis</td>
</tr>
<tr>
<td>Efficiency</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Systems</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Strategic control</td>
<td>Rationality: moderate analytical emphasis</td>
<td>High emphasis</td>
</tr>
<tr>
<td></td>
<td>Interaction: more directive decision making</td>
<td>Strategically centralised in managerial coalition</td>
</tr>
<tr>
<td></td>
<td>Specificity of targets: precise financial and market targets</td>
<td>Precise, planned and regularly reviewed.</td>
</tr>
<tr>
<td></td>
<td>Tolerance of accountability: low</td>
<td>Medium</td>
</tr>
<tr>
<td></td>
<td>Time orientation: short and medium term</td>
<td>Medium term</td>
</tr>
<tr>
<td></td>
<td>Range of involvement: medium range</td>
<td>Medium</td>
</tr>
<tr>
<td>Marketing-financial control</td>
<td>Primary focus of involvement: professional standards, quality of service, planning, marketing and compensation</td>
<td>All of these are integrated by marketing and strategic planning.</td>
</tr>
<tr>
<td>Operating control</td>
<td>Decentralization-centralization: more centralization</td>
<td>Centralised.</td>
</tr>
<tr>
<td>Structure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Differentiation</td>
<td>Level of specialization: medium</td>
<td>Highly specialised</td>
</tr>
<tr>
<td></td>
<td>Criteria of specialization: professional divisions and functional difference</td>
<td>Functional divisions</td>
</tr>
<tr>
<td></td>
<td>Use of integrative devices: medium development of hierarchy and cross functional teams</td>
<td>Medium hierarchy cross functional professional teams.</td>
</tr>
<tr>
<td>Integration</td>
<td>Use of rules and procedures: still emphasis on standards and quality but more rules generally</td>
<td>Medium</td>
</tr>
</tbody>
</table>
E3’s organising mode closely approaches the ideal type, managed Professional Business.

FIRMS WITH MORE THAN FIFTY PARTNERS SUMMARY

The firms in this **stratum** are much larger and international than any others in the collection. They are all corporate commercial in their legal focus, tend towards the managed professional business ideal type, are intensely strategic and very successful. Within this tendency one can detect some interesting variations. E2 is the most committed MPB with specialist managers specially recruited to drive the firm towards this organising mode as a strategic decision of the firm. E1 has retained many traditional features due to the conservatism of its partners but its recent embezzlement issue dominates the partners thinking as it attempts to manage more tightly. In this it can be seen as tending towards MPB but reticently so. E3 is strategically trying to re-capture some of the features that make a firm a Professional Partnership. It seeks in particular to be values driven and collegiate in nature.

It may be partially contingent on size that these firms adopt organising modes tending towards MPB. They are large, complex and dispersed. Nevertheless, one notes that strategy can ameliorate or encourage this tendency, as in the cases of E2 and E3. Similarly, contextual circumstances and values have similar impact.
Chart 5.8 Firms with more than 50 Partners and all Elements

Firms with 50 or more partners

[Bar chart showing various elements and their scores for firms with 50 or more partners]
SUMMARY

All firms in this part of the collection are successful but two of them, D2 and D3, are under threat. Interestingly, these two are the least strategic and have incoherent organising modes.

Incoherence can be caused by contextual circumstances, as in the case of D2 and its failed attempt to move vigorously towards managerialism. Nevertheless, some firms can more capably manage very substantial crises as in the case of E1. Its aftermath can be seen in current affairs but the firm has now a coherent organising mode. One can see in E1 that values inter-permeates context in interpretation and enactment of strategy.

Power is overtly noticeable in the affairs of D1. In each of the others the power coalition tends to be less obvious but in every firm it was most significant in determination of organising mode.

The following chapter sets out data for the second collection from firms B1, C3 and E2.
CHAPTER SIX:

THE DATA FOR THREE INNOVATIVE FIRMS OF VARIED SIZE

This is an accidental collection of extremely talented people, whose firm is organised for the pleasure and practice of the partners. Consultant at B1.

I think law firms, by and large, are some of the most difficult organisations to manage. I think most people can't manage them because they can't come to grips with the fact of the control each partner wants to have over the place and whilst I'm not saying we've got the answer, we've got as close as you will get. Chairman at C3.

Lawyers are all control freaks. I mean, you put ten lawyers at a table and you want to discuss how to paint the wall and you'll get ten different opinions. Managing Partner at C3.

If you watch most lawyers operate, they arise protect at all times. Now that's a typical lawyer approach to things and if you can get people in a firm who are prepared to be passionate and lead and take chances of being wrong, then you've got a chance. Then people will follow. They'll believe you. Partner at E3.

In the end, it literally became the ... fight between good and evil.
Marketing Director at E3.

INTRODUCTION

Almost twelve months after collecting the data that I have set out in the previous two chapters, I returned to three of the firms so that I could analyse their affairs more deeply. The twelve months had not been idle. Data had been analysed, feedback interviews conducted, board presentations made, re-interpretations decided and checked. There had been loops of learning between the researcher and all the firms, though some loops were more intense than others. During this time I was able to choose three firms that appeared to be responding to changes innovatively and negotiate further research in them. These firms, B1, C3 and E3, represented different strata, different spreads of business, and different organising modes.
I will describe each of the cases separately in this chapter using the same rubrics that I used in chapters four and five. I will repeat some aspects of those descriptions so as to remind you of the firm's affairs but I shall keep that to a minimum. If that first data set had strength in its comparative nature then this set has strength in its depth. That is not to say that each firm gave me equal access to data. B1 deprecates managerialism and denies keeping records on strategy, governance issues and the like, so I was limited to deep interviews of five of its seven partners and tracking one of its name partners for a period. I prepared a report to this firm and discussed this with the entire firm at an evening meeting. C3 is strongly managerialist and gave me open access to six years of its strategic files, deep interviews with partners and staff as well as lengthy de-briefing sessions with its Managing Partner. It has invited me to deliver a full report to its partnership at its next partners' retreat. E3 gave me open access to a limited range of strategy papers for the current year as well as interviews with Partners and staff and a lengthy de-briefing session with its Managing Partner, a Partner and the Marketing Director. The Managing Partner at E3 has invited me to deliver a presentation to its next National Partnership Retreat. B1 and C3 were open and receptive throughout the entire process. The Managing Partner of E3 was most guarded the initial stages but became an enthusiastic supporter of the project during its denouement. His initial view was based on a question he put bluntly to me, "What's in it for the firm?" He was worried that I might "rake over old coals", as he put it, by analysing a strategy that had been difficult to champion. After collecting data and presenting a report at a debriefing session he congratulated me on my insight into the firm and volunteered its continued involvement in my research projects. A difficulty researchers face when dealing with this level of interviewee is constantly demonstrating capacity. Reputation does not count: they want to know "Is this the best use of my time, now?" and are ruthless if they judge otherwise.

These deeper cases confirmed the observations that I have already made about B1 and C3, whilst painting in some complexity that had previously escaped me, or had occurred since the first collection. My views about E3 were ameliorated somewhat when I got closer to it. It is much less coherent and unified than it looked during that first collection. It was after I had told the Managing Partner that his firm was not
innovative, nor had it implemented those policies that it had promised a year ago that he converted to the research cause. He agreed that the change strategy had stalled. But for now, my task is to set out the data from the deeper cases of B1, C3 and E3 and I will delay most interpretations until chapter seven.

CASE B1.2

CONTEXTUAL CONSTRAINTS

B1 is a boutique firm that focuses upon corporate commercial legal matters. That statement is sufficient to identify the firm to any informed observer of the Australian legal scene. I can lay the data out so frankly in this thesis because each of its readers has entered into a confidentiality agreement. I make this statement in introducing this deep case of B1 because I will tell several quite personal stories about the partners and consultant at B1. This firm has been described by one of these in the following terms:

This is an accidental collection of extremely talented people, whose firm is organised for the pleasure and practice of the partners.

When I first introduced this case in chapter four I included the defining comments of A, one of its founding partners, who argued that his firm was like a seventeenth century corporation.

I see a corporation in the common law sense, namely the sense of a group of individuals who have invested for a common return, but in the purpose, between the investment and the common return they tend to do their own thing. It's very much the seventeenth century idea of the corporation.

These few phrases capture the sense of B1. They emphasise individuals as the firm does. To explain the sense of B1 I need to detail the stories of some of those individuals as they are vital to understanding the contextual constraints of B1. I will persist with codes for names of those to whom I refer.
Table 6.1 Glossary of Codes for B1.2

<table>
<thead>
<tr>
<th>Code</th>
<th>Role of interviewee</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Founding name partner</td>
</tr>
<tr>
<td>H</td>
<td>Founding name partner</td>
</tr>
<tr>
<td>T</td>
<td>Founding Managing Partner</td>
</tr>
<tr>
<td>M</td>
<td>Founding partner</td>
</tr>
<tr>
<td>HG</td>
<td>Salaried partner corporate</td>
</tr>
<tr>
<td>G</td>
<td>Salaried partner corporate</td>
</tr>
<tr>
<td>C</td>
<td>Salaried partner litigation</td>
</tr>
<tr>
<td>E</td>
<td>Consultant corporate</td>
</tr>
<tr>
<td>McV</td>
<td>General Manager</td>
</tr>
</tbody>
</table>

First I have to set down that A is known, "as possibly the finest corporate mind in Australia" (T). H, the other name partner, if not the finest is in the top five of corporate strategists in Australia. A, H, T and M founded the firm in 1993. The first three of these had been partners at E1 where A was, at that time, Managing Partner. M was a partner at E2.

H, the other name partner, did not work for this client but another, equally as significant. He has a reputation for fine strategy, fine network of corporate connections through Board appointments and fine law. He had returned to E1 after a period as Chairman of the Australian Securities Commission to find the firm (as he puts it),

"... as bad as any government organisation that I had been a subordinate in. You know, I'm not talking about a position of being Chairman, I'm talking about just a worker. And it was a moment that frankly, I didn't like."

The sense that E1 was bureaucratically controlled on minor matters and therefore potentially stifling or distracting for lawyers as talented as these was exacerbated by the personally costly nature of the P Affair, a $6m embezzlement by one of its partners, for all partners of that firm. It was within that context that the decision to form the new firm was taken. A had been elected Managing Partner of E1 due
chiefly to his fine work in prosecuting the P Affair but his insistence on uncompromising excellence in the law and a reputed intolerant treatment of colleagues and staff, made him ill suited for such a position in the long run. It would distract him from his practice thus denying the firm skills that he did have whilst requiring skills that he did not. A proposed a new firm that would retain his major client, the media corporation, and would focus on difficult corporate commercial cases. T refers to these as ".... 100% cases. They come to us when they want it 100% right. The 80% matters can be done by other firms." A had already discussed his resignation from E1 when they met in H's office and the first suggestion that H join such a firm was made. At this stage H was disaffected by his return to a bureaucracy that was preventing him from accepting Board appointments and was losing him personal wealth due to the P Affair.

T was the first to actually resign from E1 and this 'crossing of the Rubicon' committed the others, ameliorating considerations of loyalty that they might have had. M, who is a tax specialist, was to provide the taxation expertise that the firm was to need, particularly for a firm like the media corporation. He had "done MC tax since 1984", first as a senior associate at E2 with A, who then was a partner at E2 his mentor. They formed a team that had its main client in MC. A left E2 in 1990 and joined E1. He complains today, "that E2 permitted too much specialisation and some of those practices were ineffective. My practice supported them." So, for the period 1990 to 1993 E2, through M, provided taxation advice to the media corporation and E1 provided corporate commercial, through A. This is notable in its own right. The media corporation is one of the most complex international conglomerate in the world. It transfers product, services and costs through firms that it owns or controls throughout the world. Its arrangements inevitably involve taxation questions, so any deal that involved E1 would involve E2. M tells me, "that in effect nothing much changed. I was a partner at E2 but I spent a lot of time at E1. A still treated me like a junior. He still does." This is the most stark example I have seen of corporations following lawyers and law firms accommodating their big hitters. The media corporation used two different law firms for its corporate affairs. Partners from each firm worked as a team.
Part of A's business strategy was, of course, to end this arrangement and put into one firm a full corporate commercial taxation service. M left E2 and was a founding partner of B1. Thus in a short period E1 was to lose three partners: one described by his peers, "as possibly the finest corporate lawyer in Australia"; one with thirteen years' partner standing at the firm, a peerless legal reputation, and a fine knowledge of the corporate legal and policy making network; one described by colleagues as "terrifyingly bright" with a reputation for getting corporate results. From E2 came M who had a fine taxation practice and reputation. These formed B1, a boutique firm focused on corporate commercial law, and remain equity partners today. There are probably only two hundred or so lawyers Australia wide at the level of law that this firm practises and the name partners stand at the top of that league.

Shortly after its formation the firm was involved in the Superleague/ARL matter that was to embroil most its resources for several years. It was the most publicised corporate case in Australian history and involved negotiations, contracts, litigation and strategic advice. Whilst some in the firm might argue that it distracted the firm from its planned growth it was a public baptism that demonstrated the firm's capacity. Lawyers might tell me otherwise, but it seems to me the sort of promotion that no marketing program could deliver. One still sees memorabilia of this case throughout the firm.

Since its formation the firm has grown by adding as partners: G who was an international partner at a large corporate firm; HG who was Queensland Managing Partner of E2 and latterly a partner at Sinclair, Eyers Wilkie (now Andersen Legal); C a litigator, who was Senior Associate at F. It has also included E who was a founder at SEW and previously a partner at E2 and Chief Executive of a Government Authority. He does not have partner status but has something more than consultant status. Additionally it has added senior litigating staff and lawyers. It has few juniors and operates with very low leverage due to the nature of the matters it handles, which correspondingly permit it to change high rates.

Those I interviewed express interest and pleasure in the way that B1 practises, and there is a sense that the level of intellectual collegiality and lack of managerial constraints engender some of this. There are interesting stories told by most about
their context when they joined the firm. Management decisions taken at firms they left are presented as significantly affecting these decisions to leave.

H had returned from his stint at the Australian Securities Commission to E1 when the P Affair was being resolved. His year of practice was to bring him drawings that did not equal the bill he owed the partnership for his portion of the payment the partnership made to the corporation from which one of its partners, P, had embezzled $6m. He was disaffected by the bureaucratic ways at E1. This culminated one evening when he was fuming in his office, slighted by requests for information by bureaucrats and irate that E1 had blocked him from accepting directorships at several corporations.

I mean to say, I had been running Government Departments. I had been a Partner for thirteen years. I advised corporations on matters of significance. And some clerks wanted to know where I had been for a few days.

A joined H in his office. A had been celebrating and H, in his sombre mood, asked why. A announced that he had just told the National Managing Partner of E1 that he was about to leave the firm and commence his own firm. H recollects that he told H that this was "an eminently sensible move", and that he should join him. A agreed and they toasted in champagne, "which was mine not the firm's".

T tells an interesting story that also includes wine. He asserts that he did not wish to be a lawyer in a large firm. He wanted to run a business.

Well, I mean, I didn't want to be a lawyer, so arriving at E1 was a bizarre quirk of fate. I had no intention of being a lawyer in a large law firm.

In attempts to leave E1 he had negotiated with several smaller firms that practise in commercial law. He had discussed with lawyers of his own age and status, which he emphasises is in a lesser league than A and H, commencing their own firm. He was negotiating with an international bank to join it as corporate counsel. The P Affair made E1, "even a less pleasant place to practise than it had been". T had manoeuvred politically to have A made NSW Managing Partner. A had prosecuted the P Affair brilliantly and had saved the partners money and the Australian legal fraternity.
reputation. He worked with A as his senior partner and he proposed on several occasions that he and A form a firm that would give A the support he needed without the large firm constraints. He recollects the crucial conversation which he had with A very early on the day of the meeting between A and H.

E1 was just a disaster. I said, "We should go and start. You know, with your practice and my ability to build a practice, between us we should be able to start a law firm". I said, "You know, I could never understand why you didn't go out and do it yourself. You know, you've got a captive client, you've also got a good reputation. You could start a law firm and do it yourself and not have to put up with all this rubbish".

But I suppose in the back of my mind I realised that he needed the support of a large firm. I think we were at The Edge, the pizza place at Darlinghurst 'til about two o'clock in the morning drinking red wine and I went home as is my wont and he rang at about four o'clock in the morning, which is unfortunately his wont, "You know. It's a fucking good idea", and I thought, you know, "What's a good idea?".

And he resigned for me the next morning, which was a big pain, without actually telling me.

As I mentioned earlier T was, in fact to be the first to actually resign from E1. He told me that he was concerned that A and H were resiling so his resignation was a means of forcing their hands.

It was, E1 was in a financial, it was in financial distress. It was a management nightmare. I had A elected NSW Managing Partner, joint Managing Partner, and I had N turfed out of being the sort of group convener of our group. I mean, he's a lovely guy. I'm sure he's a great judge, but he was just pathetic as a manager and the crisis of the P Affair needed somebody to make decisions, who can go forward.

A was the obvious person in that firm. I mean, I don't want to be rude to him, but he's your choice as Managing Partner, when you're in deep shit at a crisis time. A was the only answer, so it took a lot of agitation. I got A elected Managing Partner so we spent a lot of time together. He came and hid in my room to get away from the heat and we sort of kept kicking around this idea and so I built a model and worked out what I thought we needed, then he actually spoke to H.

I didn't have anything to do with H and he told me about H and to me that was the key because I needed somebody to counteract the way that A is
and H is the counterbalance. And as soon as I had that, I actually thought I had a business and they 'ummed and arred' and got all sort of mushy.

So I got myself in a position where I had another job offer and we had done enough work to actually have the nucleus of it and I said "Okay. We either do it now or I'm out and you lose it all". And they were, "Okay. We'll do it now." and I said, "Fine", and walked down and resigned and then, of course, we had this crisis of conscience where H said, "Oh, shit, I can't do anything." and I said, "Well, it's too late mate, I've resigned, you know, you can crucify me if you wish" and A ….

I bled on the table and cried or something and A said, "You know. There, there, you'll be right. I'll look after you now, as we walked out the door". Frankly, I mean, to be honest, it didn't really matter because it was a business. I was interested in the business, sure, not in being a lawyer. I could go and do the other one, go and work for the Swiss bank and it was the same sort of business, so it didn't really matter.

A decided that a strong taxation lawyer was needed for the business because one of its major corporate clients was to be an international corporation with very complex taxation arrangements affected by several national jurisdictions. He convinced M to leave E2 and join the new firm. So E1 was to lose three partners and E2 one to the new firm, which may never had been formed but for the crisis at E1.

HG joined B1 from Andersen Legal. This branch of Andersen International is the legal arm of the international accountancy firm. Her story is also that of a refugee. A and H were refugees from E1. Both more excellent lawyers interested in the law and the professional autonomy that they saw eroded at E1. T and M can be seen as fellow travellers who took advantage of the great talents of the others and by their own considerable talents facilitated their success. HG had been Queensland Managing Partner at E2 and had left it to co-found, with E, a firm that was to become Andersen Legal. These phenomena indicate that she is not averse to managerialism. E2 is decidedly corporatist and any legal arm of an accountancy firm is the same.

HG ran the corporate section at Andersen. It had no litigation capacity and one of the matters that she had handled, a company takeover, needed litigation. She decided to litigate the matter herself aided only by a junior solicitor and found herself before the Equity Division of the Supreme Court of NSW on three cases. She had, in the past, briefed barristers and litigating solicitors but had never personally litigated a matter.
"And never will again, if I can help it" she ruefully mentioned when she met me. The cases succeeded but at great effort and personal cost to HG and "her magnificent junior". So it was this case that she put to the Australian Managing Partner of Andersen when she opposed the legal branch's move from the legal quarter of the city, where it had separate offices, to the business quarter of North Sydney, where it was to be housed with the rest of the accountancy firm. During a luncheon presentation she emphasised the difficulty of the matter and the crucial nature of office placement. A corporate law firm simply must be located, "within walking distance of the Equity Division". Her presentation failed and she was subsequently told that the National Managing Partner had asked E, "What is an Equity Division?" "They didn't have a fucking clue what I was doing. It was then I knew I had to leave." she concluded.

E too was a founding partner of the firm that was subsumed into Andersen Legal. He too was to join B1 because of Andersen's decision to integrate the law branch into the accountancy firm. He found the travel to North Sydney irksome as it meant several trips into the city to attend to corporate clients. However, it was the realisation that he would survive on the basis of his corporate political skills rather than his law that made him leave. "I had built a good practice and they have been loyal. Practising there would eventually lose me those clients. Had I been fifteen years younger I could have played the politics but I thought, I don't need this, and walked."

G was an international partner at N, a global law firm. Sydney is one of its largest posts. Internationally it had reduced its staffing and she was demoted from international to national partner. The drop in status and income were sufficient for her to decide that the corporate politics of a global firm did not provide and environment where she could practise law. "I am not a rainmaker. I am a good hard working lawyer who enjoys teams. I no longer fitted." She was to join B1, somewhat awed by the reputation of its named partners, as a Senior Associate but progressed rapidly to partner.

I have tried to capture in these anecdotes the sense that the interviewees severally gave me of B1's context. Personal issues are intertwined with the context of this firm.
All the lawyers have such talent that they can, as E put it "walk". Their personal destinies mix together in B1.

The firm was founded in late 1993. By March 1995 it was embroiled in the most famous corporate case in Australian legal history. Representing News Corporation in the Superleague versus Australian Rugby League it strategised, negotiated, sued, litigated and totally involved the firm in matters that proceeded for over two years. It was not until October 1997 that the firm had, in the main, concluded this matter. During all of this the firm demonstrated its great capacity and stamped its name within the legal fraternity. When the firm was first founded those in the legal fraternity predicted it would not last. This case however, indicated that the firm was "there for the long haul" and "A and H are into institution building". T continues,

This whole institution is run on personal insecurity. I mean, that's the driving force here. The one thing you would hear when we started in the legal community was that that firm will break up in no time because they're a bunch of hot heads. I actually think that is true, but what they haven't realised is that they were insecure hot heads and their insecurity is far stronger than their sort of negative drives and the insecurity of having to face the world having had it blow up is far worse to them, far worse than slogging it out in here.

T founded the firm with a business plan that he expresses in the following excerpt, which also brings us up to date in the affairs of the firm.

The firm, when we started, we started with what I thought was a business plan that, well, I'm not sure it was an articulated business plan particularly well, there were probably four different businesses, well, three different business plans, but my business plan was that this firm was a support unit for a corporate finance department in a major bank, or played that function in corporations. We started off that way and it built up fairly quickly and we've always been adding people which is just a reflection of the continuing work load growth.

Then Super League came along and in my view, took the firm just out of play. Basically, it was a disaster in terms of the progress of the firm. It had up sides and it had down sides, but in terms of development of an organisation it was a disaster and it's only been recently that we've got back on track and I think now we are getting a work load, a work flow that is more than we can handle and we, for that reason, cannot turn things back. It's hard to do it.
The firm is fabulously lucrative. Its rates are the same as E1, a mega firm with all the overhead costs that a very large national firm maintains, whereas it is a small firm. Except for a small lull at the end of 1997 there has never been a time when it has not had more work offered than it can accept. It is in fact, more a question of being willing to accept, because the firm has a very clear focus and will not accept work that does not fit that focus. It wavered during late 1997 but, in the event, had not taken the offer of work that did not fit the focus when a glut of work arrived. Its Managing Partner cites this context of more work than B1 can handle as reason why the firm does not market in a structured way.

Well, for two reasons. First of all, because we haven't needed to. We went through a period of a lull after Super League which is why I say it was a disaster for us. We didn't have a constant work flow and we sat round and thought about how we should approach that sort of thing and whether we should be doing it and I think we actually decided that we would go and do some of it, but then a whole lot of work poured in the door and we just didn't have the time.

An approach to marketing, a structured approach to marketing results from, it seems to me, two things. First of all, having people who do it as a, you know, if you're big enough you can afford to have somebody who does that and/or perhaps having the time to do it and we haven't had either and until I think we get to the stage where we can support somebody doing it, I can't see that we need to.

T defines the focus as 100% law, done for corporations.

I don't think so, because it depends what work you do. If what you're doing is general work where being eighty percent right is good enough, then solving problems is where it's at. But if somebody wanders in to you and says, I have Kerry Packer on one side of the fence who owns this and I want you to steal it from him, getting it eighty percent right, it's a recipe for disaster.

This firm, in my view, specialises in getting it a hundred percent right with commercial, with a level of commercial acumen and I think a very high level of commercial acumen actually. You know, in my view, this is just a firm for hard decisions. That's what they do well. I mean, A's a crisis person. H's great attribute, in my view, is to be able to make a black and white call - yes, no.
The first real matter the firm had in terms of that sort of level of stuff was H saying, H had, you know, a forty five page opinion from a merchant bank about whether or not they were entitled to make a bid for another merchant bank and whether they were subject to a certain provision in Corporation Law if they did. It was a forty five page opinion which said at the end of the day, well, perhaps not, or perhaps so, and H wrote a one page letter saying, "go for it". They did. We had no idea why he said that at the time. He thought of and believed in a solution. This firm executed and delivered the solution. It got run through the courts, we won.

I think that these guys are smarter at delivering harder answers than other people. That's its niche.

I've got lots of clients. I've got a little client called corporation Z who use us for everything and I keep saying to them, I think you're mad, but I'm happy to do it because they're with Telecom and I actually quite like the introductions given to me to a thing I know nothing about. As you say, this is a technologically inept firm.

This section is typical of T's comments. On the face of it they seem contradictory and even off hand. I suspect that this is intentional. T is a good manager but projects an offhanded manner because this settles well with the others. H, among others, sees through this, "T is a bit Teutonic but he gets us moving." First T's comments define the focus of the firm but at the same time admit that A and H often have independent views. In fact, on this issue they are as one. Interestingly, M's opinions are not considered. Second, T's comments immediately personalise the firm by citing clever opinion by H. Third, T identifies that his practice is healthy and he intimates that he uses his practice to prospect knowledge and business. Throughout our conversation he referred frequently to communications law and corporations and hinted that the firm is moving to a position in that industry in competition with D1. In summary the firm has a clear focus and whilst it does not engage in formal strategic planning its Managing Partner composes strategy.

The firm has within it several superb corporate strategists and its strategy is chiefly determined by A, H and T discussing matters and then H or T chatting with the rest of the firm. When I reviewed the strategic papers at E3, reported later in this chapter, I noted a consultant's report on mode of entry into the Australian market for global law firms. One mode was to merge with a firm like B1, with a great reputation and a strong international major client. T revealed that several accountancy firms had met
with him but that he, along with H and A, had decided that these approaches should not be encouraged as successful merger could not occur, unless it fitted the firm's focus. T commences by referring to D1, a firm that he sees as losing its way.

A big merger offer is very unproblematic to this firm. The sort of template you look at for this firm I suspect is D1 and I believe D1 has done it badly. They've enriched themselves, I think because they're interested in making money rather than, it's an odd thing to say, but I think A and H are actually focused on building an institution as opposed to making bucketloads of money.

They're both incredibly greedy people, like most people. Because they come from that big institution, E1, they are naturally focused towards that, focused towards the status and so on. It will become an issue at some point. But because they believe it, the focus, you know....

I think they'd all say that D1 made the fundamental mistake of starting off with reasonably good people and expanding to meet the demand with not-so-good people which will cause them to plateau immediately in my view at exactly the same point that all the other law firms are at and then I have to compete with them and that means I have to merge, effectively.

These comments need careful review before we proceed. T argues that D1 is a comparative firm. It commenced as a boutique focused on an industry. B1 is a boutique focused by function. D1 grew by recruiting "not-so-good people" and lost its focus. It now looks like many other firms, so its next move is to merge into one of these other firms. B1, on the other hand, has principals, who greedy though they may be, wish to build an institution. If a merger offer were sufficiently lucrative they would take the offer providing that it retained the institution. T is in effect using the language of institutionalism and arguing that the principals see intrinsic value in their organisation beyond its assets and good will.

Oh, look, the best way to look at it is from the accounting firm's point of view. I think I've been interviewed by each of the Managing Partners of major accounting firms who were looking at starting a legal firm. Obviously they'd come to, I presume, kick the tyres to work out, you know, whether we're interested in merging with them or whatever and it is a ludicrous discussion.

I mean, they offer me nothing and I offer them nothing. They say, "We've got a whole lot of work. We've got some lawyers already. We can give all this work to a law firm. You know. It's all sort of medium quality and large volume and tied sort of arrangements and that sort of thing.
And my answer is, "We've got more work than we can do. It's a completely different end of the market and you take us over and all you do is devalue our name. We don't fit with you".

The final comments to make about the firm's contextual constraints are also the most definitive. A and H are such immensely talented, sort-after individuals that they bring more work than can be handled by the firm. Talent, which is in the top third of corporate lawyers, surrounds them. Talent drives the firm. This talent gives it a niche in corporate law. Of course any of the Big Nine can do the sort of law that this firm does but its very size, reputation and network make it attractive to corporations. Firms in the Big Nine generate conflicts of interest and will refer clients to B1 confident that their client will be served excellently on the matter without endangering the relationship between their client and themselves. It has built an organisation composed of people who value professional autonomy and excellence.

**Provinces of Meaning**

Individual talents are respected in this firm and there are no illusions that there are tiers of talent. The first tier contains A and H. The second tier contains T and M. The third tier contains the salary partners and consultant. These divisions permeate the decision making in the firm, as I have mentioned in this and chapter four. They accordingly permeate the meaning of the firm as HG explains.

This firm has more than enough business and it permits us to choose what we want to do. A couldn't, wouldn't work in a large law firm. No if we grow we could lose our cachet.

Look. There are only about fifty lawyers in Australia at this level and we have four or five of those. Don't get me wrong. I am not one of those but we all work together. The last formal partners' meeting we held was to admit C as partner. But we have lots of drinks together and people wander around. T or A or H, might pop in and say, "We", probably meaning T or A or H, "think that this or that should happen. We just agree."

Undoubtedly, this exchange says something about the power in the firm, but it also speaks of informality, collegiality and respect that define the provinces of the firm. Several of the partners have been managing partners and founding partners at other firms. One of these, E, sums up their sense of B1 with the following comment.
This firm gives autonomy, adequate support, your own practice. At named firms I managed, here I don't. I don't want to. My view of it is don't be on the tea towel committee. Manage it or stay out of it and practise.

During my research at the firm I was permitted to wander throughout the firm as an employee might. I noted that there was a quiet diligence in offices, which, with the notable exception of A’s office, accepted informal drop-ins. A is renowned for his temper, and, whilst he can be charming, he can also be startlingly ferocious. HG continues,

You must understand that A can be totally unbearable. He is arguably the finest corporate legal mind in Australia. But, literally, he has brought Supreme Court Judges to tears. He can be charming but he can be a bastard.

There is nothing he would say behind your back but the problem is what he will say to your face. He couldn't ever work again in a large law firm, after being here. There is no way he will take orders from some fellow who wasn't bright enough to do law so he did accountancy.

Around here he is with intellects he respects. T is terrifyingly bright. He just says to clients, "I'll do that for $x,000 plus so much of your return on it." And they are grovellingly pleased. H is the same but more so.

T had confirmed A’s reputation when he said that his major job as Managing Partner was calming people after A had insulted them, holding the firm together and "out-manoeuvring A’s temper tantrums". G was the only partner who expressed any misgiving about the status afforded the main players and she did so as a general comment about the practice of law, which my experience in other firms would confirm.

Well, it seems to me that law firms don't recognise skills in a way that best utilise human resources. They tend to picture partners and hold up partners as being "the" stars instead of being able to allocate to people who don't want to be stars, don't want to be out there in the newspapers every day, but want to be able to contribute and feel that they are contributing and have good solid self esteem in the work that they do.
They are just good at being partners because they are partners in the true sense. They don't have to be superstar, high profile, newsworthy people like all those sorts of people that get into the newspapers all the time.

She recognises that H's effervescence and T's respect for teamwork binds the firm's collegiality but laments that B1 lacks the ceremony that she experienced in the international firm. B1 needs more "formal informality".

I mean, my view is that there should be more meetings and the firm has got to a point where it needs a little bit more ceremony because I think people do. And life is becoming more devoid of ceremony and the sort of connections that people need to reinforce their own self esteem and self worth and the belief that other people have an understanding and belief in their self worth. And meetings and functions and things do generate that sort of thing and I think we are getting to the stage where we do need a little bit more of it.

G's were the only comments that anyone in the firm made indicating any form of disquietude with the firm. All but one of the partners has some form of refugee story and all value professional autonomy. Paradoxically they find this professional autonomy in this firm, which as E recognises is "organised for the pleasure and practice of the partners" by operating but not owning their practices and deferring to the equity partners.

Law is spoken about by these people as an intellectual pursuit that is intrinsically interesting. It gives pleasure to practise it with peers. H notes that,

The dominant traits of lawyers are boring, introspective, amused by detail, intellectually arrogant. Somehow we combine these, along with A's amazing character, have fun and make money. You know, the essence of this firm is its collegiality. We all do our own thing, but we do it well. No one cares if I have gone off to a horse sale46 'cause they know I'll give the opinion when it is needed.

B1 has been able to recognise the basic tension that exists in large corporate firms between professional autonomy and integrated management. Proceeding from a huge talent base they have organised in a way that recognises the professional autonomy

46 A owns a thoroughbred horse stud and laments, "That it is almost imposible... almost... to run a horse business from a lawyer's office." The reference is to one of his conflicts at E1.
needs of their partners but also provides competitive advantage. T, their Managing Partner reflects on this as he considers the differentiating qualities of his law firm as against a legal branch of an accountancy firm.

Yes. This is 'the law is a calling and the pursuit of excellence is more important than pursuit of money'. There's no doubt that's right. That is the tension. And I think it is becoming and it will become a greater tension when the accounting firms get established as they inevitably will. I mean, the accounting firms will rake off all of that business which is legal work that you can get between fifty and eighty percent right. They'll take that business. But that is not where we operate.

Dependencies of Power

As I first noted in Chapter Four, episodic power relations are not a significant circuit in this firm. The firm has adopted E1's pricing and expenses structure so it is astoundingly lucrative being a small firm charging mega firm rates. Its rates are very high and its leverage is very low. Its Managing Partner budgets on the sort of expenses that a mega firm would need so there is never really an issue of supplying resources. In most instances he permits all partners and the consultant to commit the firm to expenses within a matter. He concentrates on the revenue side to ensure that the firm is earning and does not deny resources. During my time at the firm I was privy to one discussion on resources allocation. The resource in this instance was a junior lawyer, who the Managing Partner did not believe contributed sufficiently. He had examined the fellow's billings against his expenses and the matter was discussed with A who was the junior's lead partner. After an amicable discussion it was left to H to confront the man. H was reasonably satisfied with the work done but recognised that the chap was not developing and "never would make it in a firm like this. He's better off elsewhere." T told me later that matters of staffing are typically decided in this fashion, by T raising the matter with a partner and leaving the decision with them.

It is within the social integration circuit that this firm is most interesting. Much of what is done in the firm coddles the firm's chief rainmaker, A. According to T, this lawyer "has a personality defect as big as Sydney Harbour" but he is the major reason for the firm's success. Nonetheless, he would be unbearable but for the
leavening influence of the other rainmaker, H. The role of Managing Partner has much to do with ensuring that partners perceive they have professional autonomy and "A's excesses are mitigated".

The place is sufficiently small that you don't have to have structures as such, is the first point. So I don't have to have rules and regulations about what people can and can't do. So managing it, is to an extent, just making, sure it's got enough work going forward and frankly, A and H are good strategic thinkers and I'm happy to let them do that to the extent that they think we ought to do x and y, that's a big start.

I'm more of a, Managing Partner's a huge misnomer in fact. I'm more the negative influence than the positive one. I mean, those two see themselves as the leaders, as the people who've been there before and know where things ought to go. Providing I've got a hand brake on it or a power of veto, I'm happy to let them go and do it.

G adds to this, her sense that the firm is run by the four equity partners, which confirms comments made by HG in an earlier section.

There are really only four partners in the true equity sense and they tend to make decisions. But, for example, in relation to the leasing of this property. Clearly we had to get bigger space. But they've gone to committee and T and HG went on to the committee and did that work in relation to this place and I think everybody was pleased that they didn't have to do it. But I'm not sure, I mean, recruiting decisions are, generally the people who are most concerned in respect of what that person, where that person will fit in ........

_JG So it still is a democracy, not a sort of a ...?_

No. I think it's a, it's not a democracy by any stretch of the imagination but.....

_JG Oligarchy?_

It's a sort of a benevolent dictatorship.

This sense of benevolence is worthy of the quote. The social relations in the firm are clearly established informally but with due deference based on expertise, authority, ownership. Those who are not equity partners are treated well but there is no false illusion that they are owners.
Systemically the firm is integrated by the three main partners, A, H, and T. They occupy the nodal points of the circuits and dominate its affairs. They control admission to partnership, recruitment, and business direction. In defining the *raison d’etre* of the firm they have established processes, though apparently informal, which tightly control it. Both A and H are very well known and watched in the legal fraternity and there is a belief that this exceptional firm that they have formed may pre-figure a type of firm that will be copied within the industry\(^{47}\).

**SUMMARY FOR B1.2**

In Chapter Three I concluded that B1 adopted a coherent organising mode that closely approaches the ideal type of professional partnership. The deeper analysis of the firm has confirmed that assessment.

This form of organising mode is not unusual in law firms taken as a generality but it is unusual, probably unique, amongst firms that focus on corporate commercial. These are typically large firms that organise as managed professional businesses, as are E1, E2, E3 from whom this firm has recruited. The literature that I reviewed in chapter two research indicates that, particularly in North America, there is a tendency towards the managed professional business approach amongst such firms. B1 organises counter cyclically to that trend. It is conservative of the autonomy of the professional and disdains managerialism.

It can do this due to a unique confluence of context, values and power. The overriding feature of its context is the talent within the firm. These Big Hitters, Superstars, Rainmakers as I hear them variously called, generate sufficiently attractive, lucrative business that they can refuse work and use Big Nine rates for the work they accept. Within the firm one notes a realistic professional modesty that accepts two or three tiers of professional capacity. The accepted wisdom is that the firm is so talented and lucrative it can organise as it wishes. This may be broadly true but it understates the fine strategy of the firm. It has a very clear focus on top level corporate commercial practice. This level of focus is normally found in firms with industry focus, such as D1 with its focus on communications, but B1 has a focus that

\(^{47}\) Starbuck (1993) noted a very successful similar firm in Chicago.
is functional and tight by its principals' definitions. It does not design marketing strategies, vision statements, strategic plans or the like but it is clear that strategy drives the firm. It probably gives up opportunities for cross promotion and added services that a more managed approach might deliver, but it has more business than it can serve so why should it adopt approaches that are contrary to its values.

In this too, the personalities of the firm intrude. Its name partners are exceptional corporate strategists so it is unsurprising that a strategy that employs the firm's talents and fits a niche in the market has been prosecuted. The Managing Partner of the firm, T, enables much of this. He warns and advises, sounds out views, acts with despatch and plays a role that I have not seen in any other firm. He does not exercise the authority that most Managing Partners do of first among equals, for the firm's name partners occupy that role but he uses his considerable powers to ensure that the firm runs reasonably smoothly. This can mean dealing with personal conflicts, business decisions, administrative matters. Whilst he may publicly deprecate his role I can say that it is vital and he is impressive within it.

The values the firm espouses are those of the autonomous professional. This captures the spirit I felt at B1. I imagine that each of the partners would be a prize to any corporate commercial firm but this firm permits them interesting work, stimulating colleagues and professional autonomy. I could find few rules around the place but I believe that there is an understanding of correct action learned as a top level professional. I was privy to several conversations in which professional conduct was the touchstone of decisionmaking. There is an informality and directness within the firm, a habit of seeking and giving advice based on an expectation of legal excellence. People come and go from each others' offices without regard to rank and the décor of the place adds to this sense of collegiality (rather than egalitarianism). All of these phenomena express values of professional autonomy in the practice of the firm.

The founding partners are equity partners, whilst others are salaried partners. The partnership rarely meets formally. Matters are typically decided by some group of these founders, with the name partners most influential. Decisions are then canvassed with other partners. This is not unlike most firms I know. The uninformed observer
can find this as divisive, the informed observer knows that it rarely is. Power is more overt and understood in law firms than in industrial firms and false hierarchy is rarely its source.

I conclude that the firm is innovative. Its organising mode is unique in the corporate commercial niche and it provides a form of governance that may be attractive to talented professionals who dislike the corporatism of large firms. It gains this innovativeness through the ensemble of its context, values and power, which are complementary. Thus it has a coherent organising mode that is strategically apposite and innovative.

Innovations attract competitive advantage and are copied by others. This Schumpeterian notion sees innovation as the driving force of capitalism. The organising mode adopted by B1 is conservative of traditional ways and therefore could be attractive. Whether it prefigures a new way of organising is a moot point. I have already said that its newness is in fact a type of oldness but the other question is whether it is a transitory form. Seen thus, the organising mode is part of a trajectory that sees culmination in a merger into a large firm. This is a likely scenario for any successful boutique firm and whilst I think it likely in many instances I also believe that B1's form of organising can build an institution.

I foresee that talented lawyers disaffected by corporatism will form practices that are focussed and emphasise professional autonomy. Many of these will be merged back into larger firms but the phenomena will continue. My sense of it is that it will happen in law more than in other professional fields, such as accountancy or architecture, whose tasks and socialisation lead them to value autonomy less than lawyers do. First, lawyers at top level work individually and build loyalty with clients. These lawyers do not merge into brand names of their firms like accountants do. Second, my data revealed that lawyers are increasingly doubtful of the benefits of partnership in large firms. Liability, contributions to overheads and reduced collegiality may increasingly lead those who are sufficiently capable to form smaller practices. Third the structure of the industry is bimodal. There are many small firms and many large firms with declines in the numbers of medium firms. (ABS 1997:10) Such legal firms will need clearly expressed values, focus probably on an industry
rather than functional niche, and determined strategy that binds these. So organised they will gain competitive advantage. The main factor that will delay diffusion is the relatively poor distribution of organising knowledge in the legal profession. Organising is not a topic that gains much interest among lawyers.

Much of the previous commentary presents how the firm gains strategic competitive advantage. The firm is focused in a niche with few competitors. It uses its size and reputation to move rapidly and effectively. It attracts talent to it due to its success. It has a coherent organising mode that emphasises professional autonomy. It is decidedly strategic and this drives the firm. No one of these things will gain competitive advantage but considered as a whole, the ensemble does.

I have now laid out sufficient data and interpretation to answer several questions that I posed in Chapter Three as they apply to this firm. Does B1 organise as it does because of change in provinces of meaning? No, the provinces of meaning of the partners has not changed but they have formed, or joined, the firm because their individual values were inconsistent with the firm in which they had been employed. Is it because of "inconsistencies and contradictions between the purposive values and interests that lie behind the strategic implementing and warranting of structural features" (Ranson, Greenwood, Hinings 1980)? No, it is not but it is a major reason why the firm was formed. Was it organisation revolution? No. Was there a major change in context? No. Were there, "contradictory imperatives of situational constraints," (Ranson, Hinings, Greenwood 1980)? No. So I can say that this firm organises as it does, not because of changes in the "five important possibilities" that Ranson, Hinings, Greenwood (1980) specify but because of disaffection with the context in which they did practise and opportunity that permitted the firm to express the values of its name partners.

This analysis leads me to speculate on the coherence of the firm's organising mode. Is it bound by: "(1) the appropriate domain of operations i.e. the broad nature of an organization's raison d'etre; (2) beliefs and values about appropriate principles of organizing; and (3) appropriate criteria that should be used for evaluating organizational performance" (Greenwood and Hinings 1988:295). The data reveal that the firm's raison d'etre is the building of an institution that celebrates collegiate
autonomy and excellence in law. It is organised according to principles that emphasise this raisond'être and are enthusiastically endorsed by the partners of the firm. B1 uses criteria for judging performance that emphasises collegiate critique, lead partner decision which are congruent with principles and domain.

CASE C3.2

Contextual Constraints

When I first visited this partnership at the end of 1996 it was facing a crisis that could end it. The firm's insurance business had grown spectacularly and was contributing 75% of total revenue. Yet half the partners had commercial practices. As the firm operated on an equal partnership this meant that partners with insurance practices saw that even though they contributed three times the revenue of commercial partners, profit was shared equally. Nonetheless, the firm's investment in technology and infrastructure for the insurance business had been huge and commercial partners saw that investments had been made from retained earnings chiefly stored up by commercial practice whilst insurance grew. In other words, commercial partners had foregone dividends so that insurance could be grown and had subsidised it during its growth years. Now they were reaping their investment crop. This crisis dominated the firm's context and it is only after revisiting the firm that the complexity has become plainer.

The firm was founded in 1886 in Newcastle as a commercial practice to serve this regional industrial city situated about 100 kilometres North of Sydney. During the 1950s it developed a very strong insurance client that covered most of the collieries of NSW. The majority of these are in the Hunter region surrounding Newcastle but there are other lesser regions chiefly in the South of the State. In an effort to serve this client better, in 1965 it transferred a partner to Sydney, the State's Capital, near which is another rich coal seam. Its current Chairman, who started as an articled clerk in the firm's Sydney branch not long after this, remembers that the firm was not interested in generating extra business from the Sydney market, nor getting closer to the law makers whose Parliament is sited in Sydney. Its intention was to serve this major client. Sydney was viewed as a branch office and the partners discouraged
growing the business. Theirs' was a traditional regional commercial legal practice that happened to have an insurance client that needed servicing from Sydney. Its traditions and history were in Newcastle. Four of its five partners lived in Newcastle.

Whilst at the firm I asked each interviewee to recall significant events in the history of the firm. The Chairman, M, surprised me when he said that his appointment as a partner was an historical milestone. At the time, this struck me as immodest. However, as others subsequently independently responded that M had changed the firm, I was to discover that he had not been boastful, just direct. M's practice was initially as an associate of the Sydney partner, an old ill man, whose practice was moribund. He was appointed partner whilst this fellow still practised and commenced to build business in the Workers' Compensation segment of the insurance market as well as assisting the senior partner. M is energetic and strong willed and, at that time, as he reminded me, "thirty years younger", he confronted a partnership that was content to support the underperforming senior partner. Part of the price it paid for this support was to permit M independence. In effect this meant that he was permitted to grow the insurance business, which he did to great effect, as long as the senior fellow was supported. M managed, "to run both practices and build a decent one," as he puts it. First staff, then partners, were appointed to deal with this rapidly growing business, and when the senior Sydney partner retired due to ill health, Sydney had grown to three partners from insurance practices and one, the retiree, from commercial practice. M, the Chairman, explains that this context has helped to determine the way the firm organises.

I mean, we've grown. I've been here thirty one years. When I started, I was the articulated clerk. There was one other partner in Sydney and we've got about a hundred and forty, a hundred and fifty people I suppose in Sydney now and I think it's about two forty all told throughout the firm, but as we've grown, we've had to grow in terms of our governance and that's been difficult and that's been the hardest thing for people to accept that we're not one partner, two partner, three partner, four partner, we're sixteen, seventeen partners, not all of whom own the firm, so we're divided up into practice groups and we want people's energies directed into the practice group, management first and foremost, management of their people and because we've got a leverage of solicitors to partners of about nine to one, some groups more, and that means your management of that group, your control over files, your systems have to be spot on.
And that's what we've concentrated on. I mean, what happens is, we have asked our partners to step away from the management of the firm.

Table 6.2 Glossary of Codes for C3.2

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<tr>
<th>Code</th>
<th>Role of interviewee</th>
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The partnership continued with Sydney as the branch office and a commercial partner as Managing Partner until about nine years before this research. M took a sabbatical and toured the major USA markets. Upon his return he convinced the partnership that it must invest more in the insurance business. It accepted his advice and about three years ago appointed its first Managing Partner from an insurance practice. By then, M had "outlived them" as he puts it and was Chairman and Senior Partner of the firm. More than this, the firm was very lucrative and that lucre came from insurance. He and the Managing Partner convinced the partnership that it should appoint a specialist General Manager. It employed an Executive Search firm to locate an appropriate candidate and approached W who was General Manager of a very rapidly growing, successful New Zealand firm. W told me that the approach and the remuneration offer were professional and generous. Nonetheless, he anticipated that his non-negotiable condition, partner status, would be refused. In the event, he was granted this without demur. In fact, his recollection of it was that the Chairman and Managing Partner thought that partnership status was essential. He would be *parus inter pares*. Of course the law in this nation does not permit a non-lawyer to be a partner of a legal practice, so this was to be an arrangement accepted within the firm and devices were set to ensure adequate status and reward without endangering professional registration. This appointment was seen by all but one of my interviewees as a critical incident in the life of the firm.
At about the same time as the search for a General Manager commenced, but before W was found, the firm appointed a very bright insurance lawyer, McD, from the Government Insurance Office (GIO) of NSW. At that stage the GIO was the monopoly supplier of Compulsory Third Party insurance for the motorists of NSW. One could not register a car to drive on NSW roads unless one had CTP insurance and the only insurer that could provide it was GIO. McD managed the CTP at GIO and by his appointment to C3 he brought a competitive edge and unrivalled knowledge of the CTP market to this firm. He enabled C3 to establish a new system of doing law using high technology and very high gearing. This is critically important in the context of the firm. This part of the business runs at a leverage rate of 14:1, and despite warnings that lawyers would deprecate such work, has a very high retention rate of lawyers. He was soon appointed partner and grew his practice at 45% per year for two years, so that now it has 12 of the 14 potential CTP insurers as clients. McD had spent his legal career as counsel within Insurance Firms. He was used to a corporate environment. C3 is the first legal practice to which he was partner. His appointment was a critical incident in the life of the firm mentioned by all informants. Indeed it was seen by two of the interviewees as the most significant event in the recent life of the firm.

To summarise these incidents and return to the main narrative, one can say that the firm has, for most of its history, been a commercial regional firm but since the mid eighties it has grown enormously and is now chiefly a Sydney insurance firm with a very strong managerial coalition. So in 1996 it resolved to address the imbalance in the partnership. This was mentioned to me when I first visited the firm in 1996 but it was not until I returned to the firm for deeper analysis that I was to discover how the firm had resolved this crisis and what its future plans were.

The initial approach to resolving the revenue imbalance was to meet as a partnership during a two day retreat at Terrigal, a beachside town that boasts a four star hotel at which the partners met, about 50 kilometres north of Sydney. The choice of Terrigal was symbolic, standing half way between the two cities in which the firm is located. C3 employed SB, a director of the consultancy firm that provides comparative data on legal firms to its industry subscribers, to facilitate the meeting. This choice too, was politically important. The Armidale Group, as the consultancy is known in the
legal industry, grew out of a University research group. It collects data from subscribing professional firms, aggregates and analyses these then feeds them back to subscribers. Subscribers can then use these comparative data for their planning. For example, a law firm can compare its leverage, rates for partners, grossed up rates, expenses ratios to name a few, to similar firms. SB was a founder of this group whilst in academe and retains a reputation for impartiality and analysis.

The consultant continued his survey feedback method during this retreat. Partners were surveyed on their practices, problems and opportunities that faced the firm. This took up most of the first day. SB and W, the General Manager, spent all evening collating and interpreting the data. Day two was spent feeding back these data and at the end of the day it was agreed that a committee would translate these deliberations into a strategic plan for the firm. The committee comprised the Managing Partner, the General Manager, an insurance partner from Sydney and a commercial partner from Newcastle. The Newcastle partner was referred to as the liaison partner. This was symbolic of realpolitik. The partnership had symbolically accepted that it was an insurance business based in Sydney with a commercial practice in Newcastle. Its power had shifted. Now a Newcastle partner liaised. He now represented the colony, no longer the capital.

The committee never formally met though they had several discussions. The General Manager, argues now that the process was flawed. It was not sufficient for the partnership to deliver data to a committee and await its report. W's view of it was the partnership had to work together, solve the matter and commit to action. I interviewed two other members of this committee who confirm that W was insistent that the process would not produce an actionable solution and whilst this chafed with at least one of them, who sought an end to the matter, they agreed. In retrospect they agree it was a very wise move.

The issue moved to a second phase. There would be a second retreat and the strategic plan would be prepared at that retreat. W was asked to find a facilitator who could effectively acquit this task. F, who had been a client of the firm, had returned from an extended quasi-retirement in France, was re-establishing his strategic consultancy. He was suggested by a commercial partner and impressed W with his insistence that
strategic action was more important than strategic planning. The partnership met in a weekend retreat at Pokolbin in the Hunter Valley, Australia's oldest wine region, quite near Newcastle. The partnership proceeded directly to strategic planning and by the end of the weekend had agreed its emphases and aims. It was left to F and W to rapidly translate these into an integrated strategy. They were to do this and produce a one page summary of the strategy. This is as fine a strategic document as I have seen in any law firm. It concentrated on aims and demonstrated how these were complementary. The firm was to be recognised as an insurance business that was innovative. It was to integrate its commercial business, re-deploy partners to Sydney, build new business streams. Most importantly it authorised that the strategy should be developed into an integrated business plan to which all partners must contribute.

This document was returned to all partners who agreed that it represented their views and delegated W to prepare a detailed strategic plan that would be authorised by the firm's Board. He produced a strategic plan that specified aims, measurable goals, accountabilities and action plans. It was authorised and issued. The plan in fact required each partner to develop within guidelines their own business plan for each practice and for some to prepare plans for developing new business streams. They were aided in this by the Managing Partner and the General Manager who conducted a series of practice meetings at which the strategic drive was emphasised and ways in which practices must integrate into the firm's affairs were spelled out.

But by this stage a bloodless coup had been effected and the firm saved. The firm's control had shifted from Newcastle commercial to Sydney insurance but it decided to retain its commercial practice, extend some aspects of it but, most of all, manage it as tightly as insurance had been. The firm today is tightly controlled by its executive. It is decidedly managerialist (or corporatist as supporters in the firm term it). However, there are tensions in the firm. Partners, who in the past have adopted strategic plans and not acted upon them, are being cajoled and argued with by the executive to act. Accountabilities are being taken seriously. Some partners worry about the power of the executive whilst others, led by the Chairman, see tight leadership as necessary now to drive the firm. He says,
I think law firms, by and large, are some of the most difficult organisations to manage. I think most people can't manage them because they can't come to grips with the fact of the control each partner wants to have over the place and whilst I'm not saying we've got the answer, we've got as close as you will get.

I have previously cited the Chairman when he spoke of growth but he also identified two other significant features about the firm's internal context, structuring the firm into practice groups and emphasising management. In further illustration of these he forthrightly emphasised revenue and hard headed assessment of practices that now is in process.

There's two ways you make money. You either do it by charge out rate or by leverage. There is no other way you can do it. I mean, we only earn what we sell. So we've decided in terms of the type of work we do that it is by way of leverage that we're going to achieve maximum profit and as a result, we're a very profitable firm.

I mean, two things I'd say. One, we've paid and we pay for our infrastructure, say 1%, say we pulled in 10% more in terms of profitability or we earned 10% more or we converted 10% of our WIP into cash, that would mean to each individual equity partner, $200,000 extra a year, so we're pretty, looking pretty hard at how we increase our productivity in terms of efficiencies. It's efficiencies all the time.

.... so what we're doing, we're getting for the next, I think it's next three months, the figures from each of the groups and comparing them or assessing whether or not what a lot of the work we're doing is cost efficient. In other words, do we really want to keep doing that work? ... The area where we're not efficient is primarily in our business sector, although in relation to D's group in Sydney which is construction, we do make good money out of it. We have a major focus in terms of development of the business area. We have criteria in place that says a partner has to earn, under his control or her control, I think the figure was a minimum of $750,000, if not by 1 July next year, then there's got to be a complete re-look at that section. So we addressed that in our five year plan.

These views represent the strategy, structure and systems of the firm as expressed by the strong executive that leads the firm. It has gained significant partner electoral support but it has critics. An example can be provided by McD, a partner who as I mentioned, had strong managerial experience. In a long exchange with me he bemoaned the centralised unaccountable bureaucracy that had been formed, illustrated that it had reduced his creativity and had stifled criticism. He commenced
by arguing that the firm often plans but does not do. He sees the current process as another episode of this.

It's all very well to say, "let's do this and we're going to be this and we're going to do this in five years," but I'm sure some of the partners have no idea how to get there.

He recognised that the appointment of the General Manager coincided with much more systematising and centralising. He can see that empowering the executive is necessary to change the firm but is uncomfortable that "an unaccountable bureaucracy" stifles.

But then you stifle creativity. People like myself who, I've regarded myself as extremely innovative in what I do, find you become extremely frustrated and angry so, okay, I'm very direct about it and it's probably not endeared me about my view. It just is this stifling thing that is happening. I mean, I can see things, I can see things like the I.T. problems that are occurring, what you should do to remedy them, but, you know, problems are not being addressed quickly.

McD is renowned for his innovative work in CTP insurance to which he introduced high technology, high gearing or leverage and control by the customer. One would expect him to be an advocate of managerialism, after all this is how he achieved success in his own practice. Nevertheless, there is a sense that he insists on more say, more consultation and sees territorial disputes as wasteful.

Turf wars occur. Well, I want to get here, and I've got this obstacle here and all I want is people to work together so that we get here, but because we've created this bureaucracy where everyone sits with their own little turfs, if it's not brought together, then what you do is atrophy.

He provides the story of the tender document to illustrate this.

I can give you concrete examples. I had a tender document. I always looked after tender documents for my practice. But now, you know, we've got our bureaucratic structure. The Marketing Manager has to be involved. Now I sat down with the Marketing Manager, who wanted to use the last tender documents we did.
I said, "This is stale. It's tired. It is not as good as our competitors have put in." She argued with me and said, "No. Because you've seen so many, it's you, but it's not tired to the client".

I went away and thought about it. I thought, "No, it's not me. They are tired and stale". So I made a decision. I said to the Managing Partner, "Okay, I want to bring in a consultant to help us basically come up with some new ideas, to look at what our documents we've done, the presentation". That then causes noses to become out of joint in the marketing area because if you bring in someone else. "Why can't I do it"? You know, all this sort of territorial positions that we mentioned.

So it depends on how much people are empowered to do and I mean, it's a very dangerous course of action to establish a bureaucracy that's not accountable and I don't think it is accountable. I don't think the General Manager is accountable. I'm accountable for the performance of my practice group and I say to them, "Okay, you are a service. You are a service provider to me. Okay, both in human resources, marketing, whatever and you should, like if I was to purchase something. You have to provide the service back to me as I have to provide the service to the client, but that mentality doesn't exist.

We establish these groups in human resources, I.T., whatever, which is not accountable. I mean, if there's criticism that is made, then it goes to W and then there's a full, you know, there's just no accountability and it's usually an attack back on the partners by the relevant group.

The other side of the tender document story is volunteered by the Managing Partner who also uses it as an example of the necessity, although "I am not a centralist", to control matters through his office until the firm, "operates as a firm not several practices". F's version of the tender document story was that McD employed a consultant after being displeased with the Marketing Manager's efforts. F would not 'sign off' the tender document because it did not comply with "house style". F continued his discussion of use of consultants but deviated in a way that showed the entrepreneurial spirit of the firm and its willingness to move "out of straight law".

We've made pretty good use of consultants in other ways. So the firm ... in terms of both broadening our contact base to sell legal products, but also being involved in, I suppose what you might say is a cross selling of the consultant. Doing a job for a client and utilising us or us going to a client and bringing a consultant in as well, and that's happening.

_JG_ What the accountants have been doing for years.
On an increasing basis, yeah. We haven't gone, I mean, in terms of identifying well, do we make this a multi-disciplinary practice and how do we do that? Once again, that's got to be driven by the practice groups I would suggest. Now, employment law, industrial relations is probably a good area as an example. There are some firms around which pretty clearly have people that are non-lawyers working in those firms and I can see that as a natural extension. Now whether they're employees or consultants or whatever, that's likely to happen. I mean, engineers, I mean, our guy in Melbourne an engineer by background anyway. I mean, I can possibly see scope for that. But I mean, I think it's been much up to encouraging the individual practice groups to be identifying what range of services and products they can be selling to their target market and if they need to do that by way of bringing in a, for instance, a non-lawyer, well I'm sure we'd look at it.

Yeah, . . . one of the areas that was flagged was a claims management bureau, claims management consultancies, which are quasi legal but they're also probably quite, not quite legal on the sorts of things that the accountancy firms have been doing for years is providing consultant services and yeah. Sure, I mean, the Chairman's done that. In fact, Nick nearly fell over himself. I mean. He did a consultancy for FR on their workers' comp area and couldn't believe what he could charge. Whereas you know, you're just saying how easy it is to do that rather than sit back and churn out the files at a fixed price and I'm saying, "Well, do you get the message? That's what you should be doing". That's starting to happen.

This exchange nicely illustrates some interesting features of the context of C3. It is innovative. It is willing "to let the customer decide what is valuable". F had previously said, "We won't walk away from something that they need because it's not law." C3 has overcome the crisis that may have ended it by installing a powerful executive and a clear strategic plan with accountabilities. Its Managing Partner wishes matters to eventually be practice driven, "them pushing rather than me pulling" but for now realises that the executive must control matters.

To facilitate this process the General Manager and the Managing Partner presented an ensemble of policy papers to the Board. These cumulatively affected the provinces of meaning and power circuits of the firm.
Provinces of Meaning

This firm has been shifting towards values found in the MPB ideal type for the last six years or so. I reviewed all the firm's strategic papers since 1991 and one can note an increasing espousal of managerial ways and use of managerial language. That is not to say that the firm enacted these ways, for partners of law firms frequently agree to a matter without ever intending to act upon it. This was an issue that the Managing Partner had recognised when he asked the General Manager to ensure that the current strategic plan was expressed in such a way that performance could be measured. In fulfilling this request both the General Manager and the Managing Partner were to discover that they had also to establish a series of enabling policies and procedures. There were a number of files submitted that the Board considered this year, that codify the managerial approach of the firm and legitimate controls exerted by the Managing Partner. In particular, I noted the partnership nomination committee file that provides a sensible mechanism for performance review and strategic potential; the lockstep partner progression file; the professional discussion file that establishes a performance review by the Managing Partner, (assisted if necessary by the General Manager or Chairman), for partners and requires preparation of business plans that incorporate development plans; the core values file that confirms by Board fiat a set of values statements against which performance can be assessed and argues for intolerance of behaviour outside these values.

Up until this year the firm had a system of partner admission by which a partner would nominate and champion his nomination before the full partnership. The partnership could interview the nominee, but need not, and would consider all nominations. In effect, few nominations were made in the six years that I reviewed but half of those failed and some appointments that were made did not prove successful. The Managing Partner proposed, and it was accepted by the Board, that a nomination committee would consider all nominations made by partners. The committee would consist of the Managing Partner, General Manager and the Chairman, with the CTP Partner as alternative member. These were to consider the nominee against criteria decided from time to time by the Board. These criteria would vary depending on strategic considerations. That is to say there were no
absolute criteria for making partner, the firm's context was to be considered. This recognised that there may be occasions in which a very talented associate in one practice might not make partner because it did not suit the firm's strategy for this to happen. Of course, one can see a shift in power in this process, from the collective to the managerial coalition, but for now I point to the symbolic change in values that this represents. The Board provides the Nomination Committee with criteria. Currently it emphasises that partners who will be admitted must be good managers, not just, indeed not even, very good lawyers. F, the Managing Partner, captures the sense of this.

Certainly with the practice group structure we've driven accountability and awareness and financial management down to the practice groups and you see, once again, this concept I suppose of producing managers is what we're driving. The risk you run with that is that some people just adapt to it better than others and some people are better at it than others. That's very true. The key to it then, I suppose, is making the people practice group leaders who are the best leaders and not necessarily the best lawyers.

He exemplifies this by the case of a salaried partner who is a fine lawyer but will not, despite development attempts, manage. He argues that this person does not fit the firm, should not be offered equity. Indeed this partner should leave.

That's sort of what's happened with this guy here. We've said, "Hey, you know, black letter lawyer fine, group leader no, not going to happen". Now, people find that hard to stomach because of a whole lot of reasons in terms of status and that sort of stuff, but we've driven the financial accountability and awareness down to the practice group and we want them managed.

In this exchange he demonstrates that he understands the diversity of the firm but he insists that all the firm must manage its affairs. He claims that the firm will finally achieve when these managerial ways are institutionalised throughout the firm.

_We don't insist on one best way_ because basically different groups are in different types of legal processes. I mean, our workers' comp. group has got a huge gearing of partners to solicitor. They're in the process you know, and that's got to be managed quite differently to someone that's in a sort of more esoteric legal area with a small number of people. I mean,
it's a different sort of, you know, hourly rate, different, you know, all that sort of stuff.

So they've got to be managed quite differently. So we pushed, and you know, that's had varying degrees of success with varying practice groups and we've got a part of a continuing process is to educate the partners in the practice groups and the people. I mean, if you can drive the people in your group to have an awareness of these things, that's when you get the real, the real take off.

The firm had a lockstep progression system for partners' drawings but it was causing some angst among the high performing insurance partners. A partner could be admitted at 30% partner rating and would progress incrementally to 100% partner rating. Any partner who thought that this was inappropriate would make his or her case to the full partnership which might agree to amend the rating of the partner depending on performance or some other criterion that was brought to their attention. The General Manager prepared a policy paper to the Board that reviewed methods of paying drawings. Significantly, it considered varying forms of lockstep progression, differential profit share, weighted contributions and recommended a form of lockstep progression that had as standards admission at 40% rating with incremental progression. However, it was explicitly stated that these could be varied on partnership decision upon the recommendation of the Managing Partner. Partners might enter at a higher rating or progress at more rapid increments. Significantly the Managing Partner was the cipher in this decision process.

The General Manager proposed to the Board that the firm institute a system to facilitate the firm's strategy. His argument was that the partnership collectively might decide aims and directions but it was the individual responsibility of partners to prepare business plans for their practices. These would be based on partners' realistic planning of their billing capacity, development areas for their practices and a clear demonstration that these contributed to the strategy of the firm. At the same meeting the Managing Partner proposed a policy whereby partners' performance would be reviewed annually in discussions with the Managing Partner and, where necessary, the General Manager and the Chairman of Partners. The policy papers also provided to partners well-defined examples of these plans and reviews. Both chose pointed collage examples that captured some of the well known habits of partners. This was provocative, unshielded and its success signalled changes in espoused values.
Finally, the Managing Partner proposed to the Board that it accept a set of core values, which in his opinion captured the essence of the firm. More than this, he argued that once these values had been accepted by the Board the firm should be intolerant of those who strayed from them. He argued that his role of assisting partners in their performance reviews and business planning required that they define values. He supported his proposal with an extract from Maister (1997) that exhorted the notion of intolerance and told the myth of the rainmaker who strayed so far from the firm's mores that he was dismissed despite his fabulous contributions to revenue. The Board accepted that defined core values were necessary but did not accept F's submission. It required the General Manager to review the matter and submit a new proposal. W and F discussed the matter and W brought back to the Board a set of values, "that were less motherhood statements, and had some teeth." I have questioned both and asked them whether they saw these values as emanating from the way the firm was, or driving it towards the way they wanted the firm to be. The Managing Partner was perfectly clear that the values could be defined similarly to a strategy. The General Manager tried to capture the sense of the way the firm's values were but disciplined to the cause of strategy. But one of the partners, McD, is less enthusiastic about these values. He sees them as imposed and irrelevant.

I think the core value came up. It was the Managing Partner who drove it. Where it came from? Why there was a sudden decision that we had to adopt core values? I don't know.

Now, it might be because some of the criticism that I directed to the Board and to, you know, performance in general, but I took a view as a shareholder in this business I was perfectly entitled to make those criticisms, but I've been cautioned not to, so I don't say anything any more.

Well, (the core values), they're motherhood statements. You know, loyal to your partners, all of that stuff. I don't think they're that important. F would disagree, but I don't think it's affecting our bottom line business. F says if you don't accept the core values, well you know, you shouldn't be a partner in this firm. Well, that's okay, you can all agree with it, but they're all motherhood statements. Fine, okay, we'll all agree to it.

I still think it's another example of a bureaucrat, as part of the bureaucratic structure, the core values also silence a lot of criticism, if
you look at them very carefully. They silence criticism and that’s what I worry about.

JG What’s said here, stays here, that sort of…?

All of those type of things. So you can’t, "Said here, stays here. Loyalty to partners, a loyalty to firm, all these things. So if I criticise what’s going on and say well, I don’t agree with this, this and this. Then you go and get the core values thrown at you. That’s not the way I work. I believe that if I’m wrong or if there’s criticisms, I want to hear it, I want to hear about criticisms of my own performance from my group and you know, I’ll always own up and I say I’ve made a mistake, I’ve done this, this and this. But if we sit here and adopt core values and people shut up and not make any statement, and say well, I don’t agree with this, this and this because it’s going against core values. It’s a silence mechanism.

McD here comfortably adopts ambiguous positions. Initially he says that the core values were no more than motherhood statements so one can accept them without demur, full knowing they mean little. On the other hand he sees these as stifling criticism, which he personifies.

The Managing Partner’s written proposal and his discussions with me indicate that he sees the issue differently. He says that he was affected by material he had read from Maister (1997) whilst he was doing a course at Harvard University. He believed that the firm needed to codify its values. He sees values as a way that a firm can operate coherently in a decentralised firm.

As you will see, this is one of two firms in the deep cases that defined their values by Board fiat. As you may have already seen, B1 is values driven but these are not written down, they are known and lived. At C3 there is a mechanistic definition of values by the Board, which in effect, are treated without much respect by some partners. "Why wouldn’t you agree with F’s values? They don’t mean anything. They don’t affect my practice. Let Gary have his way," was McD’s riposte. In effect this captures the spirit of partners to the managerial coalition. Let them be in charge but I own the place. This might be misguided. I suspect that it is, for the coalition is entrenching, but the importance is that the partners are willing to see their firm adopt values statements that assist the managerial coalition to control matters. I will have more to say about this matter in the next section. For now, I should like to point to
the overt definition of values and that these shifted the firm's espousal of values towards the MPB ideal.

The firm does business entrepreneurially. Particularly in insurance it is renowned for developing complementary business streams, providing value added services to clients and getting very close to its customers. Because of the context of the insurance industry much of this is carried out with senior managers or corporate counsel. It accepts that if a client needs help in, say, case management or technology to track its matters, then C3 is perfectly willing to help, if it fits its strategy. These new business streams should be included in business plans and if they are not they would require approval by the Managing Partner. The firm recognises this innovative facet of its nature and celebrates this with its new vision and mission statements.

We are a highly innovative client focussed specialised law firm. Our mission is to provide insurance and business law services and products to corporations, businesses and government on the Eastern Seaboard.

This replaced the stodgy, ungrammatical and meaningless,

Our mission is to efficiently provide the highest quality value added services for the benefit of clients.

My point is that this too, signals a change in the values espousal of the firm. There is a sense that the firm historically said things because it thought that it should, but statements were not intended to necessarily translate into actions. The previous mission avoided recognising what the firm actually did or how it did it. The current statements recognise that insurance is premier, that innovation drives the firm, that it sells products as well as services. It is pretty brash for a Sydney Law Firm. The current strategy, the business plans, the reviews, the policy files signal that the habit of planning not acting has changed. The firm is no longer a consensual anarchy it is ruled.
Dependencies of Power

During my review of files I was given access to all the files that had been considered by the Board during the last year. The General Manager identified those matters that I just reviewed as significant but he also said that, "You might find these other files interesting. They are how we got it done." One can read too much into a comment made early in transactions when material is being handed over, but I came to sense that this had been a cue to me so that I could notice political machinations. This series of "other files" at one level looked like sensible managerial housekeeping, the sort of action a Board would expect of a recently appointed General Manager. However, at another level they attended to the welfare of partners and demonstrated the benefits of a corporatist approach.

These included, the file that re-arranged funding so that growth is now funded as 60:40 an expense line from borrowings rather than retained earnings; the same file facilitated payment of owed drawings; the file that established health checks for partners; the file that establishes taxation advice to partners and the delegations of authority.

I was given access to the firm's Balance Sheets, Profit and Loss Statements and comparative data from the Armidale Group. These highlighted for me the remarkably conservative and abstemious funding regime that had prevailed in the firm for the last half decade. The firm had adopted a policy of funding growth from retained earnings. This period had also seen enormous investment in technology, premises and infrastructure, particularly for the insurance business. Amazingly the firm also maintained a series of partners' accounts totalling over $2m in owed drawings. Thus the partners had loaned the firm from their personal wealth so that it could grow. They had forgone part of their 'salary' but still paid provisional tax on it, so to speak. They had done this, by unsecured loan, not by equity. The General Manager, who is an Accountant by profession, rapidly moved to arrange a line of finance through a bank by putting all the firm's business to tender. He was then able to propose to the Board that it amend its funding regime so that 60% of its growth would be funded by bank loans, and the remainder from retained earnings. Thereby, he was able to free funds so that partners' owed drawings could be paid.
Partners are jointly and severally liable for each other's actions. They rely on the synergy that partners provide to the firm. If one of them is ill, under performing or experiences adverse publicity or prosecution it affects the firm. C3 had insured against illness and expected its partners to maintain health and regularly review it. In a similar spirit it expected partners to ensure that they acted with probity and, in particular they ensured that none of their tax affairs could cause distress to the partnership. The General Manager systematised these matters with two policy approvals by the Board. First he arranged by tender a health service that would annually check on partners' health and supervise their health regimes. Secondly, he arranged with the firm's accountants, an international partnership, to provide a service whereby they would review tax returns prepared by partners or their agents. This was seen as a fiduciary duty of the firm to partners, jointly and severally.

Until this year the firm had a policy that all expenditure over a few hundred dollars must be authorised by a partner. In effect all equity partners could sign whilst all exercised this right or duty occasionally, most of the time this reduced to three of these. No managerial staff had independent financial authority. This was cumbersome and the divided authority permitted staff "to pick their mark" for signatory amongst several candidates, all of whom were preoccupied with legal practice. The firm had been embarrassed when a partner so delayed signing a cheque to remit the firm's regular income taxation that the firm was fined by the Taxation Commissioner. The General Manager proposed a system whereby he and a Newcastle partner had authority up to $50,000, the Managing Partner had authority up to $100,000 and staff had delegations up to $5,000. All authorisations required a counter signatory. The Board agreed to this after much discussion.

I see all these files, and the associated discussions at Board and partner level that processed them, as an ensemble that consolidates the power of the managerial coalition to implement the partnership decisions. I see this coalition as consisting of, the Chairman who "warns and advises" partners who are contributing insufficiently to the strategy of the firm, the Managing Partner who is charged with enforcing the current strategy and growing the firm through innovation, and the General Manager who is charged with leading all support functions, as well as advising the Partnership
parus inter pares.
I notice that the firm's strong corporate leadership enables it to determine and control strategy and invest in management, systems and technology. The partners have invested heavily in these in recent years but perhaps their most strategic investment has been in specialised management that is energetically integrating the firm. The firm's partners seem now to be accepting of this strategic and managerial arrangement though commitment is reputedly uneven and not all contribute fully to the strategic plan.

The combination of the context and the changing values of the firm enable the coalition to act as energetically as it now does. One can trace each of the circuits of power and note how the coalition has occupied nodal points and thereby established systemic integration.
Figure 6.1 Circuits of Power

Source: (Clegg 1989:214)
If one focuses firstly on the episodic power relations one can note that the General Manager and Managing Partner have centralised power over resources in their hands. We can conclude the story of the tender document with an exchange in which McD, though aggrieved, recognises the agency power of the Managing Partner, delegated from the Board. In this instance he is commenting on information technology, I.T.

If you employ someone as your I.T. manager I would expect that I.T. person to provide advice and properly assess, you know, applications and systems which we were proposing to look at. Give us an honest opinion as to, you know, xyz, whether it's good, bad or indifferent.

*JG* But how does it go, and I'll be direct, too, how does it go when the I.T.'s opinion comes across and a partner says, that looks pretty stale to me, we should get a consultant's advice?

McD
Well, that's the decision of the Board.

The coalition's agency is facilitated through standing conditions of control that they have championed and the Board of Partners has authorised.

Moreover, they have used their dispositional power to establish rules that fix relations of meaning and membership. As you consider the ensemble of actions that they took this last year you notice that each incrementally moved the firm towards a corporatist approach. They manage the affairs of the business in which the partners operate. They have majority influence on the partner nomination committee. The Managing Partner reviews all business plans and development plans. Where necessary the General Manager or Chairman is involved to resolve matters. The tender document story that I just concluded, though a seemingly minor matter, illustrates how this works. McD was unhappy with the creative work completed by the firm's Marketing Department when he prepared a tender so he commissioned an outside firm to prepare the artwork and creative input. No tender can leave C3 unless it is authorised by the Managing Partner who would not sign the matter off as it did not comply with the house rules. From McD's perspective this was seen as bureaucratic interference. From F's perspective it was seen as simply ensuring consistency and an appropriate image. The fact that both of these fellows mentioned the matter in interviews with me highlighted that the action was symbolic. The
professional autonomy of the partner did not extend to strategic matters that were the domain of the Managing Partner. The Managing Partner was willing 'to call' the chief rainmaker of the firm and reinforce policy. In the final analysis McD realised that the firm's ways now meant he must comply.

Two other matters are worth brief mention. The firm, due to its high leverage, has faced some quality control problems. C3's strategic plan authorises the Managing Partner to institute a system of quality management with assistance from the General Manager, a consultant and a Senior Associate from McD's staff. All minutes from Partners' Practice Meetings are routinely sent to the Managing Partner who is ex officio a member of all groups. Both of these alter the meaning of what it is to practice at C3. They recognise and institutionalise the roles of the managerial coalition.

The system is integrated by this coalition's influence over innovation in techniques of discipline and production. Up until this year the firm was, at least officially, collegiately tolerant of behaviour that was not strategically integrated. Partners might agree, at annual strategic planning retreats, to ensure that their practices were integrated but they did not permit sufficient control over this to ensure implementation. Control was vested in committees and the Managing Partner administered, rather then managed the firm. Now you can notice that the Managing Partner strategically manages the firm. He is charged with innovation policy. This is significant as the firm recognises that innovation secures it strategic competitive advantage. Therefore, by entrusting the Managing Partner with innovation it places him in a vital nodal point of the firm. He will decide whether a project proceeds or not. His role in development discussions and business plan development also places him centrally. Development discussions euphemistically describe performance review and the Managing Partner sees that this must be consistent with the strategic direction of the firm and the values it has authorised. Now in all of this the Managing Partner has been mentioned frequently. Is power centralised in him? No. It is not. Power is shared between a mutually supporting coalition.

The Chairman is extremely powerful though one does not read this in rules. Here his role is described as chairing Partnership Boards and representing the firm as Senior
Partner. His role has metaphorical similarities to that of a monarch, hence my previous comments about warning and advising. But the metaphor fails in terms of this fellow's interventions. All in the firm defer to him and all realise that the Managing Partner and General Manager have his support. He intervenes directly when needed, to convince a partner to change his or her ways. He agreed with my political simile for his position.

And the Chairman of the firm is Chairman of the Board so to speak who'd be looking at strategic matters as well as conducting one's own practice. And also probably giving the grey haired image of corporate governance, assisting in terms of areas of trouble shooting, where people who have problems can come and talk, air them without feeling that they're going to go anywhere but within those walls.

JG Sort of the senior minister role that Lee Kwan Yu's taken on.

Precisely. Father confessor.

Similarly, the General Manager locks the coalition. He has the managerial experience, professional education and time that the others do not. He provides the research and the advice but he too intervenes at partner level when required. The three men gave examples in which one or two of them was involved in discussions with partners who were under performing and emphasised that there were instances in which one or the other was better suited to the task. All these things combine to integrate the system within the firm. Its power has shifted and consolidated into a corporatist approach.

I mentioned earlier that each interviewee was asked for significant events. The Managing Partner had recently dismissed a salary partner. He had failed to respond to warnings and advice to change performance. F made it very plain that the firm had done what it could to develop this partner, and had ensured that was well treated in separation from the firm. He recognised however that this was the first occasion that the firm had dismissed a partner despite some very poorly performing partners. He recognised that this was seen as symbolic within the firm and demonstrated that the firm was "a managed entity".
And, you know, we've dealt with the guy in a very sensitive and generous way. I mean, we put a package which was well over and above what he could have expected. It was twelve months' basically and we've wanted to do it on a positive basis and all that sort of stuff and in the discussion, he knew it was coming because we had some discussions with him before where we'd been pretty blunt. It was a sort of performance appraisal where he was aware that there were some real issues.

_JG So it's a critical incident in the life of this firm you would say?

It's hard for me to say so because it's only just happened, but I think it is because he'd certainly, although as I say, you don't want it to work in too much of a negative way but it has sent a message, "Well, guys, you know, this is real life." It's not just, ....

I had to give an equity partner a warning. When I say a warning, it was a conversation because equity is certainly different to salaried and I felt a bit uneasy about that because we had to do it because we were looking at this lateral recruit exercise, lateral recruiting exercise, and we were just going into strategic planning phase which meant, that's why I had to say something to him because we all agreed that this person couldn't lead the commercial team in Sydney and for him to sit there and do, us do a planning exercise with him thinking that and saying that and espousing that was just a waste of time. And the reason I feel uncomfortable was, because this was I suppose about six months after I'd come into the job, we had no really effective appraisal system in place whereby we'd been giving feedback to people and in some sense it's very unfair to walk in like that and say to someone, well, like here's a sort of ultimatum.

Yeah. And like, I earn a million dollars a year. And so I felt uneasy about that because it was sort of like out of nowhere, no knowledge beforehand and you know, people should be told along the way when things happen so that they're aware of it, so it doesn't come as such a big surprise. I mean, if I've had four conversations with you over twelve months where I'm saying, look, mate, we haven't done any seminars, you haven't raised your profile, you've lost three secretaries in this time, you know. You're aware.

But if I walk in out of the blue and say, well mate, it's all over.

Externally, the firm has some impact on professional practices. Its Chairman is a member of the NSW Law Society and will most probably will be its Treasurer this year. As I explained in an earlier chapter, his political connections amongst lawmakers and those who influence lawmakers are very significant. He is a member of the Australian Insurance Council and has appointments to several Boards. His is a public face of the firm who contributes influence to the external system.
I questioned the Managing Partner on why the firm’s innovative managerial practices had not been widely copied in the industry. He suggested that lawyers’ egos would prevent them from standing back from involvement in management and the industry grapevine is not attuned to managerial innovations.

Probably some industries are much better than others, I would have thought, at informing the whole industry about what the innovative practices are and everyone says, well we’ll grab them. I don’t know that that information flow is as formalised in the legal industry. So in terms of say a management area, lawyers are very egotistical people, I mean, you must know that by now and some of them.

JG I have never met an egotistical lawyer.

I don’t know. I mean, would there be many firms that would put up with a W (the General Manager) at the level that we have him? Okay. I pushed about five, six years ago when we were less than half the size we are now to employ an in-house marketing person and that was probably, at that time, might even be longer than that now, but at that time was probably seen as a pretty progressive, I mean, I had to fight tooth and nail to get it here, but that might have been seen to be a pretty progressive step for a firm that size as well.

I don’t know. It’s got more to do with lawyers and the way they, I mean, we are all control freaks. I mean, you put ten lawyers at a table and you want to discuss how to paint the wall and you’ll get ten different opinions.

Nonetheless, firms that practise in insurance law are aware of the activities of this firm, its extremely high leverage, its diversified business products, its technology, its customer relations, the way it organises. To this extent it will influence other firms' practices and may transmit its institutionalised innovations.

By chance I fell across data that illustrate this. Whilst de-briefing the Managing Partner at E3 I was pressed for an example that could illustrate my comments that values were intrinsic to the way law firms organise. E3 is a very large firm that emphasises corporate commercial but also has a healthy practice in top end difficult insurance law. I commented that if it were to move into CTP insurance, this move down market would be foreign to current values. I was then to discover that E3’s Melbourne partners had closely watched C3 and had proposed that E3 compete in C3’s market using C3’s techniques. Their argument was that the bigger firm could out-spend and out-deliver C3 due to economies of size. It could commence in
Melbourne and then expand into Sydney. I doubt that E3 will do this. It is strategically fraught and inconsistent with its values and power. The point for now is that E3 has tracked C3. I posit that external systemic influence also depends on power, values and context and their inter-permeation and that transmission of institutionalised ways will have economic as well as institutional legitimation.

**SUMMARY FOR C3.2**

The firm is in the process of restructuring its commercial business so that it is focussed on identified industries and key clients. It has re-deployed a commercial partner from Newcastle to strengthen its Sydney commercial work and also plans to grow through lateral acquisitions of suitable partners with strong businesses. Thus it intends to ameliorate the uneven balance of sales by growing current commercial business through more focused and efficient management, acquiring new partners, opening new business streams that integrate into its strategy, developing star associates to partner admission readiness, re-directing or releasing partners and associates whom despite development opportunities do not perform.

In all of this there is a critical and difficult task of maintaining drive, commitment and coherence in the partnership. The firm has achieved this by moving energetically towards the Managed Professional Business ideal type. It has empowered it managerial coalition. It espouses values that are managerialist. It enacts system that are managerialist. These have inter-permeated each other and have been contextually sensible. Currently the leadership of the firm has been tolerant of less than optimum performance and seems to have strategically decided to move the firm onwards at a measured pace that permits management by persuasion. The recent departures of partners from the firm may signal symbolically an end to that time and their concurrence with the New Year perhaps signals a quickening.

The firm is innovative partially due to cost leadership. This term refers to efficiency in delivering services thereby providing higher margins for the firm than its competitors. It does not mean lower pricing, though the firm prices more lowly than its competitors for some services. The firm gears at about 9:1 with some areas gearing as high as 16:1 and others as low as 3:1. This is a strategic issue that is a prime source of conflict in a partnership. The firm has grown at 18 to 20% recently
but here again the range is instructive with the highly geared practices returning well above these figures. To split the firm between insurance business and commercial business hides some intriguing complexities to do with industries and jurisdictions but for our current discussion such a move is necessary to highlight strategic issues.

The insurance side of the business is much more highly geared than the commercial side. It has adopted a system of work that is industry and client focused and enabled by technology. These permit a form of specialisation, attention to client needs and delegation with accountability controls that is professionally corporatist. Some observers might choose one or another of these elements as innovations but I prefer to see the ensemble as what really makes C3 tick. Other firms have high gearing though probably none as high as 9:1. Other firms are more tightly industry focused. Others tend to client needs better than it does across its service range. But the innovative ensemble of system of work, industry and client focus, enabling technology is the source of strategic competitive advantage.

Still, this ensemble is not uniformly present in the firm. Commercial business, by its nature, cannot be as highly geared as practices like CTP. It seems that the system of work adopted in insurance has not yet been fully adopted in commercial though the strategic plan and its associated implementation policies make plain that the Board intends that it shall (to the extent possible). C3 is innovative and that provides it competitive advantage. The casual observer looks to its gearing and explains the firm's success in those terms but that is facile. It is the integrated innovative ensemble that provides competitive advantage.

To understand this firm you must closely attend to its context, values and dependencies of power. Each permeates the other and creates circumstances in which actions are possible or even likely. These actions are repeated in type and one finds that an organising mode is extant. C3's organising mode closely approaches MPB. Its elements are coherent but not unchallenged. The combination of the elements enables the firm to organise as it does but that could change. Currently the managerial coalition of the firm is driving the firm strategically. They gain their legitimacy by institutional and economic means. But what if circumstances changed? What if the lucrative areas of insurance were closed by legislation? What if the
power of current commercial lawyers was stronger? We can't know how these hypothetical circumstances might affect the firm but it does seem clear that this firm has adopted an organising mode due to the complex interplay of the elements I have mentioned and it will alter its mode by some variation in them.

I argued in Chapter Five that C3 is coherently organised into a mode that closely approaches the ideal type of Managed Professional Business. Deeper analysis into the firm have provided data that comprehensively confirm that interpretation. We turn now to the 'five important possibilities' that Ranson, Hinings, Greenwood (1980) suggest are causative of organising modes. First, there has been a change in the province of meaning that has been strategically influenced by the managerial coalition and the success of insurance business streams. Second, the managerial coalition have strategically implemented structure and systems that are consistent with the firm's drive for insurance business and innovation. Third, there has been an organisational revolution, albeit a revolution that has taken several years. Fourth, there was a major change in context when insurance business was deregulated and this has been causative of changes. There were no contradictory imperatives of situational constraints.

Next we can consider whether the firm's domain, principles and criteria consistently provide coherence in the organising mode. They do, though not as uncontestedly as in the case of B1. C3's raison d'etre is to be a profitable innovative business that celebrates and institutionalises its managerialism. This is contested by some partners but their cause is declining. The principles by which the firm are organised emphasise this domain. Similarly the criteria for performance set standards based on strategic management.

**CASE E3.2**

**Contextual Constraints**

E3 has grown through a series of mergers from a small elite Sydney firm to a national firm with offices in most capitals of Australia, New Zealand, London UK, and an association with the World Law Group. Its files state that Sydney, Melbourne,
Canberra and London offices have been fully financially integrated since 1988. The firm operates with a structure that includes elected Chairman, National Managing Partner and Managing Partners for each state. Its London office reports to the partnership. It appoints practice heads and there is a move towards national practices.

I analysed this firm in late 1996 and early 1997 as part of the first data collection, then again in late 1997 and early 1998 as part of the second data collection. During all this time I maintained occasional contact with the firm by way of correspondence, telephone calls and emails. At the end of my first data collection I formed the view that E3 had embarked on managerial policies that were innovative. I used this point to gain admission to the firm for the deeper collection. As I have mentioned, the NSW Managing Partner was reticent but after some negotiation agreed to my conducting a focused review of the firm. I was given access to the firm's strategy development files, maintained by the Managing Partner, as well as interviews and observations. The strategy development files were seen by the Managing Partner as a way that I could gain an insight into the firm's affairs without, "raking over old coals". This proved to be an efficient way to gain this insight, particularly as the series of files that he gave me contained his copious margin notes prepared on different policy proposals. I spent three days analysing these files before I conducted any further interviews. The nature of C3 can be understood by relating matters to this central core of strategy determination and implementation. The manner in which matters become agenda for strategic discussion, how strategy is debated and determined, how it is promulgated and implemented, gives special insight into the firm.

C3 is the largest firm in the Big Nine but it is not the most secure. As I said in a previous chapter, it is seen by some in the legal industry as a big *parvenu* confederation. It has grown to its present size by a series of mergers that are explained by B, the chief proponent of most mergers. As B mentions several Big Nine firms I have coded them alphabetically.

We were not the first with the urge to merge. No, but we've been lucky. We were one of the first people to do it. There might have been a couple of insignificant things around, but really, we led the way, ourselves and *firm G*, led the merger rush.
Table 6.3 Glossary of Codes for E3.2

<table>
<thead>
<tr>
<th>Code</th>
<th>Role of interviewee</th>
</tr>
</thead>
<tbody>
<tr>
<td>S</td>
<td>National Managing Partner</td>
</tr>
<tr>
<td>C</td>
<td>NSW Managing Partner</td>
</tr>
<tr>
<td>B</td>
<td>Partner, Corporate Transactions</td>
</tr>
<tr>
<td>M</td>
<td>Resigned Partner</td>
</tr>
<tr>
<td>Ca</td>
<td>Marketing Director</td>
</tr>
<tr>
<td>F</td>
<td>A Big Six firms outside sample</td>
</tr>
<tr>
<td>G</td>
<td>Another Big Six firm outside sample</td>
</tr>
<tr>
<td>E1</td>
<td>A Big Six firm in sample</td>
</tr>
</tbody>
</table>

Although these mergers started in 1981 and were completed by about 1988 they still are important in the context of E3. They tell us some things about how the top end of the industry became structured but more germane to this consideration is how E3 was constructed from a small, well regarded, old Sydney firm into the largest of the Big Nine. Partner B had proceeded this conversation by telling me that the competing firm G, mentioned above, was doing such innovative things that E3’s top lawyer, M, left to join them.

People like myself and a couple of others had to make up their mind whether they went with him or whether they stayed and tried to make the old firm something different. And the decision I made was that I was personally going to give it five years. Now I was at the ripe old age of thirty one and that was a big moment in my life so we used that, or I used it and a couple of others used it as a means of basically restructuring the firm, getting the family partners to let go some of their privileges, getting them to recognise that certain things had to change and that enabled us to then carry through the merger and brought M back. So we were able to basically, it was a crunch point but we basically used that crisis where the family partners recognised that if they didn't co-operate then, we'd leave. So you get on the tram or we get off.

The rationale behind the mergers was that "the firm had to gain a critical mass" and specialise. B recognised that there was risk in this process but thought the goal was
worth the risk. He says now that he is not sure how he did it all because during all the mergers, and his time as Managing Partner 1984 -1987 he maintained a full practice.

Yeah. There's risks in everything you do, but here I was able to persuade people with each merger that the risk is not doing it and we recognised by 1981 that we got, nine or ten of us recognised that you had to get bigger and specialised in a hurry otherwise you were going to lose what you had and really, conservatism wasn't an option. You could see because it was obvious, E1 and F and G were just roaring ahead and we had to take a number of risks to catch them.

E3 was the first Sydney firm to move to national firm status. It did this firstly by merging with a large Melbourne firm and subsequently by merging with firms in other States or forming branches. During all of this process B was centrally involved and insists that the firm wanted to be different than others and that any merger had to be consistent with its pre-existing culture.

Then the other big thing that we did was the Melbourne merger and that was something, again to be innovative. We really believed that to try and start offering something different to the Sydney business community it would be good to have a Melbourne arm. Also we could look bigger quickly, just as a numbers game, and it worked. When we created E3 suddenly E1 found themselves smaller than this new firm called E3. Straightaway they formed their federation, the E3/R group to get things back into kilter.

So, we led that Melbourne thing. G did it at much the same time as us and then when E1 suddenly found themselves relegated to number three, they formed this federation because they could see where it was going and we've continued to. So everyone got on that bandwagon but it achieved what we wanted which was to make us look bigger and better than otherwise we would.

Again it was a crisis sort of driven. We deliberately did it differently to other people, we made it one big profit pool. Again, we talked to the Melbourne firm's people enough to know that they had the same objectives and values that we did.

B is basically an architect of E3 as it is now. Our conversation continued to detail mergers and mention personalities and in all of these there were a number of constants. B always sees strategic action as reaction to a crisis that often involves personalities. Values must be consistent or at least amenable for mergers to work. Mergers force firms to rationalise what they are doing.
It forces you to think and to start making decisions that put people into groups and say, look, we're going to be more specialised. You've got to stop doing probate and you've got the right to say so. So that was essentially what I regard as the defining moment which then, and then we worked from there and we did other mergers. We took named people out of some interstate mergers and built the Sydney firm up to be credible.

The second thing is that in each case, we always made sure that people had the same values and culture that we have.

So, the context of E3 in 1998 includes a history of mergers. It has had the same National Managing Partner since 1987, who operates from the Melbourne office. It is the biggest firm of the Big Nine but it is not the most profitable nor the most influential. Indeed many commentators see it as a prime candidate for take over in the medium term.

Strategy in its latest round was determined by a series of meetings of the partnership at which Managing Partners brought to agenda those items that they believed were important to the firm and likely to gain the attention of partners. These were debated after presentations were made and from these debates a sense of priority and support was determined. After this process the Partnership's Board final strategic agenda included threat from accountancy and global law firms, potential mergers, mobility of lawyers, strength of Sydney business, partner remuneration, key customers and a theme of differentiation. I have more to say on how this agenda was determined in the section on dependencies of power. For now I will concentrate on how the firm determined strategy and whether it drives the firm.

E3 commissioned consultants' reports on the threat from accountancy and global law firms. It asked State Managing Partners to prepare papers on each of the other matters. Each presentation had a yes case and a no case presented by Managing Partners or invited presenters and the whole process was facilitated by a partner from an international consultancy group (separate from the reporting consultants). These debates settled the strategic context of the firm for the medium term.

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48 The Asia Pacific Law Review of December 1997 ranks it in the top ten firms on only two occasions in its review of Australia, for its insurance and banking work from Sydney.
The partnership resolved that the threat from international global law firms was that one of the Premier League firms from the UK would establish in Australia by acquiring a well respected industry focused firm with a general service capability and national coverage. E3 was capable and had recently been able to out perform the Premier League firms in Asian dealings due to the trading advantage of the $A and their lawyers cultural affinities in the region. It considered a strategic merger with E2 that would make the new firm too large to swallow. However this option was rejected on the grounds of huge expense, the diverted energy it would take and the decidedly corporatist and entrepreneurial approach in quasi and non-legal areas of E2. This last point is important as it is consistent with B’s earlier comments. Moreover, merging with E2 had been proposed by C, the NSW Managing Partner, who had discussions with J, the National Managing Partner of E2. As we shall see later C\textsuperscript{49} has experienced difficulty whenever he proposes policies that seem to move E3 towards a corporatist approach. The accountancy threat has become real in Australia with Andersen International setting up a legal firm, Eyres, Sharwood, Wilkie in 1995 which it subsumed as Andersen Legal in 1997. Nevertheless, the Board decided that providing it could differentiate, the accountants would not be insurmountable though they would take business. They would review their businesses and focus their practice away from areas that the accountants preferred and they would emphasise the special professionalism of lawyers. They would not set up business streams that were non-legal, just to compete with accountants. The points to emphasise in these decisions were the willingness of the Board to consider radical solutions such as merging with E2 or an allying with an accountant, its decision to stay with the status quo, its emphasis on values, its belief in the superior professionalism of lawyers.

The Board also received proposals on mobility of partners, Sydney business and remuneration of partners. The presentations on mobility recognised that whilst Australia has too many lawyers it has too few excellent corporate commercial lawyers and that any strategy adopted by E3 must recognise this. It must ensure that

\textsuperscript{49} C was recruited from his position as Managing Partner of the firm G, one of the Big Nine. It has a reputation for being very tightly managed.
it retains the best. However, due to the continuing strength of the Sydney market, mobility within the firm should also be encouraged. Market demand estimates suggested that Sydney was growing at twice the mean of all states combined and whilst Melbourne remained strong Sydney needed talent transferred to it if it was going to reap the boom. It was decided that targeted partners and staff from other capitals would be approached by the National Managing Partner to relocate. The NSW Managing Partner introduced a paper in which he had reviewed the remuneration systems for partners of all of the Big Nine. He argued that the firm should retain its equal partnership and as a consequence of this should tighten its systems for assessing the performance of partners and this was accepted.

These decisions move the firm towards a more integrated managed entity. Sydney, Brisbane, Melbourne and Canberra have been financially integrated since 1988 yet this is the first time re-locations have been authorised at Board level. As lawyers build their own practices and local knowledge is required, this is a more radical move than it might appear. As you saw in the case of C3.2 it has re-located partners to take advantage of the Sydney boom but that was a much smaller partnership threatened by disestablishment. E3 will target the redeployment so that partners with strong connections to national clients will be redeployed.

There is a paradox with an equal partnership whether it uses a lockstep system of progression or some other. The paradox is that equal partnerships must be intolerant if they are to survive. If you have differential profit sharing it does not worry you if another partner is not bringing as much business to the firm as you do, providing your accounting and hers are equitable. However, if profit is shared equally and she is not bringing equal work then you have cause for conflict. By having the Board confirm its equal partnership remuneration system C ensured that the partners could be moved to accepting partner performance review that was rigorous. Later in the process he was to propose and have accepted a 360 degree performance review whereby the opinions of clients, colleagues and staff would be weighed in any performance review.

The major effort to integrate these positions into strategy came from the NSW Managing Partner in terms of proposals whereby key customers would be identified
and a theme of "being easy to work with" would be adopted. He argued that the firm had to view itself nationally. If a partner in Brisbane for example, had built a relationship with a national corporation, then partners in other states should benefit from that relationship. Similarly, the firm should cross sell its services. So if it does prospectus work from one of the merchant banks it ought to be able to introduce its industrial relations lawyers to the merchant bank and its clients. Partners should consider these things in their annual business plans. "Let's permit a partner to write less business himself so that the partnership gets more" he comments on the margin of his prompt notes. The argument continued by analysing the strength of practices in revenue, profitability, reputation and network. C was then able to argue that the firm should identify its key fourteen national customers and ensure that it built excellent relations with them. These consisted of knowing their businesses intimately, providing preferential pricing and increasing C3's service guarantees to these. Once these things were done the firm could integrate itself and present a differentiating image to the marketplace by being easy to deal with.

This approach was based on market research that indicated corporate counsellors felt isolated and missed the collegiate atmosphere, specialisation and socialisation of law firms. It was argued that a firm that built special relationships with corporate counsellors, got to know their business, and most importantly, was easy to deal with, would gain and retain business. Further, the proposal was based on emphasising a part of E3's culture that had always been there. C referred to several campaigns by the National Managing Partner for the firm to adopt a policy of listening to clients. He argued that being easy to work with subsumed that theme and was an expression of what the firm was, as well as being good for business.

The Board agreed these things and commissioned each Managing Partner to conduct focus groups in their States that, particularly, included "the young Turks". How would this suite of policies be accepted? Additionally each Managing Partner was expected to discuss these matters with all partners in their State before the National Partnership gathering to which all partners are invited. The National Partnership confirmed the policies though they were never integrated into one overarching strategic plan and State Managing Partners were charged with implementing them.
There are a number of points to note in this process. First, much attention is given to
the electorate of the firm. Policy must be persuasive of the powerful and "the young
Turks" are included in that grouping. Second, the strategy is not found in one
document. Third, although the policy was decided integratively it was to be
implemented on a State basis. There was no evidence that the National Managing
partner would ensure integration.

This was a point that I had not appreciated when I first visited the firm. Then I had
seen the NSW Branch energetically implementing the strategic policies. In this
second collection I was able to note that NSW was implementing policies over which
it had control but other states and the national office had not been as active. When I
first visited this firm in December 1996 it was clearly and confidently enunciating
these strategies that involved closer focus on clients, developing relationships with
clients, providing preferential pricing for valued clients, understanding the business
details of clients, building relationships that make E3 easier to deal with than other
 corporate commercial firms. The firm seemed coherent in its drive towards these
things even though it had then been recently agreed. I visited it several times during
1997 and early 1998 as part of feedback interviews for the first collection and the
deep case second collection. I formed the tentative view, prior to the deep case
collection, that the strategy was being unevenly implemented. During the deep case
collection I was able to review the strategy development and implementation process
and confirm this tentative view.

Both C, the Marketing Director and B, the partner involved in the early mergers,
agreed that E3 has consistently agreed strategies but not acted upon them. The firm
grew from a tradition of rapid action that drove strategy but had settled into "strategic
wishing" as Ca, the Marketing Director, put it.

The planning process has never been very well defined. So really, until C
came and spent some time putting that plan together, which then
everybody got engaged in, there just was not a discernible plan.

_JG I gained that impression from previous conversations and that's what
I'm really interested in, in discovering the mechanics of how a firm moves
from this wishful planning to accountable planning._
Okay. It does it through having an individual or individuals who reduce the planning process into something that everybody can understand, that's simple, that isn't full of jargon and sort of, you know, aspirational stuff and which actually is capable of being implemented and giving people guidance. It's a question of having a focus and then being disciplined about the focus.

And so, everybody in this firm, when they hear the word business plan, marketing plan, strategic plan, their eyes used to glaze over because nobody could just reduce it down to something simple. It was really this question of form over substance. That plan, a secretary can understand, so it's very simple and that's really the benefit of it and that's one of C's strengths.

B's sense of it is that lawyers present a difficult group to move strategically. Getting them to opine is easier than getting them to act, which requires leadership.

Yeah, it's a question of leadership. If you've got people in a firm who are prepared to take personal chance, you see, which is rare in lawyers. If you watch most lawyers operate, they arise protect at all times. They'll say to the client, well, it's this way or that way and you could go this way, but don't forget there's this, this and this, so essentially they manoeuvre it so the client makes the decision.

They've been diligent and they've pushed the client one way, but the client can never come back and say, you told me to do this. Now that's typical lawyer approach to things and if you can get people in a firm who are prepared to be passionate and lead and take chances of being wrong, then you've got a chance. Then people will follow. They'll believe you.

I mean, I've had many a situation where I've sat there, I've analysed it and in my mind I know it's 51/49, but I've decided which one is 51 and I've gone in there and argued passionately and never mentioned the 49 points against it. Now personally, that's dangerous because if it doesn't work, then someone can say, well, you told us to do this and that's gone wrong, you never told us about that, never told us about this. So a lot of people would go in and argue the 51 and 49, but mention all the 49 points against it so that if it did go wrong, they'd have the arse protection feeling, oh well, I did tell you this, you mentioned it, we decided to do this.

One cannot leave B's comments without recollecting that the Board at E3 has a system of debate that requires a no case to be made to every yes case.

So one now finds E3 in a position in which required strategy has been agreed at Board level. I then examined its implementation and I found that some matters had
been acted upon more energetically than others. Of course some matters, such as the remuneration scheme, threat from accountancy and global law firms, potential mergers required no action. Of the others, mobility of lawyers, strength of Sydney business, key customers and a theme of differentiation I was to find commitment and action varied.

Twelve months after the policy on mobility had been agreed Sydney had recruited several associates but no partner to it and its NSW Managing Partner was considering lateral acquisitions from other Sydney firms. The key customers had been identified, cross selling was occurring, Managing Partners were actively reviewing key customer satisfaction, teams were formed to mirror key customer's organising ways. The differentiation scheme was being championed from the Sydney office. Its Marketing Director had arranged publicity, trained staff, amended performance criteria to take account of the policy. The Sydney office had re-negotiated service agreements with three key customers and had given the customer better access to the firm's records. Other states had contributed money and expertise in this venture but had not yet implemented.

Ca, the Marketing Director, had presented to several states and was convinced that the example of Sydney could not proceed unless C3 nationally was committed. In discussions with me she constantly referred to recent Telephone companies advertising in which both players in Australia's current duopoly communications market promised more than they delivered. Telstra, in particular had a promotion of, "making it easier". Optus says "Yes more often". C argues that they did not "make it easier" or "say yes more often" and their public hates them for it. C3 would find itself similarly reviled unless it delivered on its promise 'to be easy to deal with' and that must be national. Currently, the NSW Managing Partner has delayed further roll out of this policy until commitment from other states matches NSW enthusiasm.

He had however, been successful in convincing the National Managing Partner to re-organise the firm nationally around national practice groups. C explains this move towards integration.
It is basically a three pronged approach. You've got legal knowledge groups, that's so you can actually do whatever it is you're supposed to do, client knowledge groups so you actually understand what they want so you can better meet their expectations and industry knowledge groups, okay, and the industry knowledge groups are only the industries in which we have key customers.

At the conclusion of the deep case data collection I prepared a report for the Managing Partner and presented it to him at a meeting with the Marketing Director and another Partner who is the firm's chief rainmaker and has been its Managing Partner.

With considerable trepidation I told the meeting that my view was the firm was not innovative as it had not yet implemented policies that it had planned to do. It was not as coherently organised as I had previously suggested because there were significant tensions between the State branches and uneven commitment to policies. The meeting unanimously confirmed my interpretations, to my great relief. They agreed that NSW had championed reforms that had not been delivered because the firm is not managerially integrated nationally.

Provinces of Meaning

Although the firm is not integrated managerially it does share many values amongst its branches because of the methods by which mergers had been arranged. You will recall that B constantly referred to culture or values consonance as an essential element of any merger. This element has always had importance in the firm but in recent years it has attempted to codify matters. The Marketing Director was asked to review the way E3 does business and to define its essence. She argued that there are three essential features of E3's values and has convinced the national management to include these in performance reviews.

These are the three non-negotiable facts of life, expertise. See we've had people that haven't actually been expert enough. So expertise, financial performance and this being easy to work with, internally and externally.

That's what the, essentially the review process is based on, that's what the admission to partnership is based on and if you fall down in any one of
those areas and after we've invested time in trying to help you, you're still deficient, then you'll have to go.

She argues that these are consistent with the way E3 has always been, but now they are being codified so that they can be managed, reviewed and employed for strategic advantage.

It was not codified, but it was there. We've had lots of people who haven't been made partners. We've had lots of people that weren't made senior associates because the way they dealt with support staff indicated that they really didn't understand the role that everybody plays, not just them.

E3 is strategically moving towards ensuring that teams of people work with clients. Its NSW Managing Partner argues that,

It is an absolute stupidity to let a relationship depend and develop on one person. But clients like people, not teams, so you've got to get around that issue.

Here C refers to the issue of mobility of lawyers and the danger that any firm that relies on relationship marketing can face. If a lawyer leaves the firm she may take clients with her unless the firm has a system of providing team service. By defining key clients and national legal, client and industry knowledge groups the firm has a structure in which the individualistic lawyer is expected to share relationships. This is backed up by the performance reviews. So if one found a circumstance where a lawyer's billings were fine but little effort had been put into team affairs then first the practice head, then the Managing Partner would counsel. C explains this in terms of partner admission.

I mean, you might have someone whose billings are just unbelievably impressive, but unless he deals well with clients and colleagues he won't make it. That's never, sheer financial performance has never been the sole criteria for entry into our partnership.

E3's clients are corporations and in getting closer to its clients it requires its lawyers to be easy to deal with. Its lawyers deal with people at various levels in these
corporations. C asserts that their recruitment policy takes this into consideration and ensures that "the culture is continuous".

I mean, you're looking for people that are very adaptable, that are able to deal with a claims person or a bank clerk. I mean. A lot of the people in banks that you work with have got a very low educational background and actually aren't very smart. These people are actually able to deal with those people without making them feel like second class citizens and deal with a lot of their clients who are legally qualified and treat them as equals.

This does not necessarily mean employing the best black letter lawyer unless he also happens to be good at dealing with people.

There's always been a commitment to look for certain qualities in people which ensure that the culture of the place is maintained. We've done that for the last twelve years. Looked for people who, if you like, have got the broadest repertoire of behaviour. So it's always gone beyond academic results. We've got lots of people who've actually got pretty rotten academic results because they've been so busy doing all these other things which at the work place they've excelled because it wasn't lack of brains that didn't give them good academic results.

E3's province of meaning is inextricably woven into its contextual constraints. Its values are espoused regularly and systems are in place to see that they are maintained. The current strategy is an extension of the firm's prevailing province of meaning and it seems that its delay in implementation is due to its dependencies of power.

**Dependencies of Power**

The agenda for Managing Partners' meetings is determined in a fashion that partially considers the electorate of partners. Managing Partners canvass interests and are canvassed by interests. They act in varying degrees as leaders of opinion depending on their personal interest in matters, the level of concern that their electorate may express and their power. C, the NSW Managing Partner explains as follows

Most Managing Partners don't want to be ahead of their time. There's a fine step between actually having leadership and intuition and actually being so far ahead that nobody knows what you're talking about. So what
tends to happen is that they basically test the water to see whether or not anybody else has any concerns. That way they've got some leverage for getting it forward.

So, the National Managing Partner who receives submissions from the other Managing Partners has a special opportunity in determining agenda but he must act with care as cabals are formed around certain items. It is instructive therefore to have access to the working papers of such a large firm. These reveal proposals that were defeated in early rounds when the agenda for the final Board was being prepared. Three such episodes will illustrate. The Western Australian Managing Partner has a special responsibility for liaison with Asian markets. He prepared a paper recommending that the firm investigate establishing offices in Djakarta and Hong Kong. E3 had strategic alliances with firms in both these cities. He proposed that the Djakarta arrangement be changed to branch status. In Hong Kong the firm's ally had been a branch of one of the UK's Premier League. This alliance had been ended as the handover of the leased colony back to China neared. He argued that E3 should ally with a very strong Cantonese firm with a long term view to making it a branch of E3. These were defeated in early rounds of discussions, chiefly due to arguments produced by the NSW Managing Partner that the firm need not commit resources, should be cautious, could act in alliances. Two of the Big Nine were in Peoples' Republic of China and one had branches in two other Asian capitals. They were not doing well, so it was wiser to wait. This argument, which the economic meltdown of the Asian Tiger economies in 1997 subsequently proved correct, was accepted.

The second issue was raised by the National Managing Partner. He argued that the firm should become more deeply involved with the World Law Group, particularly in its efforts to extend internationally the anti-trust laws of the USA that restrict the trading practices of accountants. Again, the NSW Managing Partner objected. For a commercial firm to argue for restraint of trade would be special pleading. It was foreign to the way the business traded nationally. It would be expensive, unsuccessful and the accountants posed no real threat to the firm in the medium term. Whilst this matter was defeated the issue of competition from global accounting firms remained till the final round.
The third matter was raised by the NSW Managing Partner. He wanted to review the rental expenses of the firm nationally. He had prepared an extensive case study of rental costs of a building in Sydney and demonstrated that substantial savings could be made. Whilst he realised that Sydney rents were higher than anywhere else nationally he believed that the exercise would free working capital for other purposes. This was opposed by several of the Managing Partners. Whilst this was not a national issue the welfare of staff had to do with reasonable office accommodation and the partnership would not compromise on such a matter.

The Marketing Director explains the last event as an example of the NSW Managing Partner not reading the mood of E3 correctly. He had been recruited from G, one of the Big Nine noted for its tight corporate ways. As I mentioned in a previous chapter staff at E3 would congratulate themselves by reflecting that E1 is arrogant, F hunts in packs, G has no personality, whereas they were approachable professionals. She sees C's presentation of this issue as very poor tactically as, "it gave the Board an opportunity to remind him that he no longer was at G. Bean counters don't rule here". On the other hand, it can be read as presenting top the other Managing Partners a proposal to be defeated, as he had defeated two other issues. These also sent messages to the Board. First, the NSW Managing Partner, C, is persuasive and has support. Second, global issues, though cherished by the National Managing Partner are not currently of interest, particularly if C opposes.

The partnership is in a position where it recognises a need for change but it is not yet ready to institute it. Its National Managing Partner has held the office for twelve years and the firm is seen as drifting. The NSW Managing Partner comes to the firm with a high reputation for excellent management but from a firm that is decidedly managerialist, which the partners see as too radical for their values. C will say unbidden, as he has to me several times, "I don't want to be National Managing Partner." But many believe that, "If drafted he would run. If elected he would serve." as B put it to me.

There is a group who wish to see E3 more integrally managed and who believe that C should become National Managing Partner. The Marketing Director reflected this with the following comments.
The national firm's crying out for leadership. I mean, there's a lot of dissatisfaction with our National Managing Partner and it's deserved. So when this guy C was available, there was just no question of having him because they were dying for it. Now, with that, he could have come with all that credibility, but unless he could substantiate it, it would have been a waste of time. So having been here a couple of years, I mean, he's not perfect and people now recognise his weaknesses, but he's got a lot of strengths and a lot of support.

She argues that the firm realise it needs more management but is nervous to move too far from its values. More to the point, the very person who could lead the firm better has a side to him that does not please some partners.

There's a great deal of support for him on one hand. I'm just trying to think of how to describe this. Yes, there's a lot of support. There's a lot of support for him by a lot of people who believe that, that this is C's strength and weakness. We have to get our act together to actually be better managed and to get better rewards for partners. Better cost management, better, you know, better management of the top and the bottom line.

But at the same time, there's a concern that you can't put that first. That was no better demonstrated than by this. One of the things that C really, really, really wants to improve is our spend on premises. Okay? That's his big bug bear. Okay? And he had a brilliant deal that he put to people and rammed down their throat. Because the only thing that really matters to him, despite, you know, I mean, he's sort of new age enough to know what he ought to say, but what really matters to C is bucks. So he thought that they would lap this deal up because it was going to make them a lot more money. He really hadn't factored in how the trade off that they as a group are prepared to make between treating people, giving people decent living quarters and how much they take home in their pocket. This thing went back to the vote a number of times because he just thought he could ram it through.

In the end, it literally became the sort of fight between good and evil.

NSW has a strong coalition of support for C. Its strongest supporters are the Marketing Director and Partner B. Partner B has considerable influence in the firm because he was the architect of the mergers, he is the firm's chief rainmaker and he was National Managing Partner prior to the current incumbent. People look upon his time in that role as exciting growth. Thus, although he is clear that he would never take the role again, his opinion is heard as to who should. He counterpoints his time
when he managed most the mergers with now. He commences by commenting that the debate system that his predecessor instituted is flawed as it gives lawyers a chance to find reasons not to act.

It is absolute rubbish. So during those formative years of ’84/’87 I just banged it through and I just took decisions as to what I thought was right and I just persuaded and pushed and yelled and.

He believes that once a firm gets large, partners and staff concentrate on their individual practices and it requires passionate leadership to get them pulling as a team. In response to my question as to whether he sees this as the innate conservatism of lawyers or their sense of professional autonomy, he responded.

No, no, you just get varying levels of personal commitment and priorities. There's no question about that, but it gets down to almost group dynamics. I mean, our corporate group gets on very well as a group and there's always more to do than we can do and we feel that we can do. Really it's a question of just choosing where best to go. So we all get on well. So it's exciting.

We keep hiring people and fill them with the same sort of enthusiasm. We throw the work around. And it goes well. Other groups feel a bit more threatened by strategic plans and integrated leadership. Worry about their client base more. Feel as though they can't charge enough. More defensive ... So you get different levels of enthusiasm.

I mean, the corporate group which I lead wouldn't have thought twice about the strategic plan, in any real sense. Whereas other groups said, oh, that's picking on us there. So, you get that sort of feel. You know, it really gets down to leadership and then, as you say, having made those decisions through leadership, then getting down to appropriate implementation. It requires people, you need enough people in the firm who are willing to take that sort of personal risk and push and demand that things happen.

Our conversation continued with B blending anecdotes about the merger time of 1984 to 1987 with commentary about how things should be now. He finds himself in the difficult situation where he knows that to change the firm he must champion the cause of C but his practice is so busy and exciting he finds it hard to do so consistently. This exchange illustrates B's pride about what was achieved combined with his distaste about having to be involved again. He is clear that passionate
leadership is required, along with sound management. He knows that he does not wish to provide it, and probably couldn't.

Yeah, yeah. Yeah, yeah, it was tough. And I kept my practice too, you just have to really.

JG I don't know how you guys do that, I really don't. Don't know how you run a firm as large as this and also run your practice.

You do it quickly and you use people like the Marketing Director who was then, I think she came in 1985 or '84, I've forgotten as Administration Manager and she was tremendous and she still is. I mean, she and I worked together very well in that '84/'87 period and she brought ideas, I mean, I'm not, I've never done management. I knew what I wanted to achieve but I didn't know the detail of how to do it, get there, whereas she did. So she was the one that brought in the best means of getting our summer clerks appointed. The best way of administering the office, the best way of getting the human resources organised.

So she and I, so basically I did it quickly. I had two or three good managers underneath me. I would meet with them and just do things, call meetings, get things done. I just treated it like another matter and I just did the work as well.

There wasn't as much instant gratification in those days. I mean, you could sort of put a client off until tomorrow, whereas now it's mad, people just want everything yesterday and they want you to focus totally on them all day today. So it was a different atmosphere. I'm working much harder now than I did then.

I mean, in that period my wife, she said she'll never let me be Managing Partner again because it became all consuming. You couldn't stop thinking about it because it was so vital, I mean, it was life or death stuff. I mean, every matter I do, it's life or death for the client. I mean, I get involved and help a lot and you still go home at night and not worry about whether that deal's going to happen or not. Whereas I mean, in those periods I used to worry about how we're going to get the drawers out. How we're going to do this. It was just all consuming.

In terms of strategically managing E3 there is a contest being waged currently. It is in a stage of manoeuvring and symbolic actions rather than joined conflict. The current National Managing Partner is no longer driving E3 sufficiently. E3 is challenged in the market which is increasing competitive and all partners of the Big Nine firms know predictions that only five will remain in the medium term. The partnership would like to replace him but do so with due respect. The NSW
Managing Partner is the only candidate who has support but he has not been in the firm very long and he comes from a firm renowned for a form of management that partners at E3 see as inimical to their ways. C says that he is not a candidate but his supporters, such as B, are confident that he will run when the time is right.

One can trace this contest through the circuitry of power (Clegg 1989:214). It is more complex than in B1 or C3 because the firm is so large and widespread. If I concentrated on NSW only, I could describe a situation in which C has control over resources and has moved to build upon the social integration circuit of E3. The work he has done extends the E3 process. Moves it more towards a managed approach but incrementally and carefully. The Marketing Director confirms this in the following exchange.

In terms of a strategic plan and its focus, what I was going to say, I know what I was going to say. There's not very much that C's actually put in place that hasn't actually been out there and been openly discussed before he came. The problem was that it was, you know, me saying it as opposed to this person that's had seventeen years at Firm G saying it.

And so what he'd done, for example, with strategic plan in terms of the focus on clients had actually been started in 1992 by me, okay? But because I mean, the National Managing Partner at the time was just leaving it up to you and actively, sort of, white anting it from the point of view of, oh well, you don't, you know, I mean, you don't really have to do this if you don't want to, as in not to me, but to other people.

So I mean, when C sort of had this plan in terms of what we're going to focus on, I think he was actually quite surprised. I mean, it was already done all that stuff. I'd already analysed every client that was slowly fading out the door and we had, in fact, gone through this process, but because you didn't have a Managing Partner who was there saying, "and this is what we're going to do and this is really important and she's going to run these client service terms" and you know.

There are a number of issues here. First the Marketing Director's policy may have been right in 1992 but she is not a lawyer, so lacks influence in the firm. Second, the National Managing Partner does not support strategy if it requires confronting partners in support of management. Third, the NSW Managing Partner is now championing a strategy that is near to E3's ways but extends them towards tighter management. It is a policy that is familiar to E3's partner and will gain him support.
At NSW level the Managing Partner has control of each of the circuits of power but at National level these are in contest. The firm does have similarities to a confederation, particularly in the agency circuit. State Managing Partners have an enormous amount of discretion on how they decide matters of resource allocation. It is only when their decisions may be seen as affecting the national firm that a matter would be referred to the Partnership Board. A fine example of this was the proposal by the NSW Managing Partner to reduce expenditure on leases. Had this been restricted to NSW leases it is unlikely that any partner would have suggested the matter go to national debate. So, there is a sense that the national debate occurs in the social integration circuit and the system integration circuit. Both of these circuits relate to integration. The strategic policies that I reviewed provide a framework for national integration but action integrates, frameworks do not. The Sydney team pushed very hard to get the policies agreed. C, the Managing Partner and B, the corporate commercial partner both told me that so much effort went into gaining acceptance of the policy they were distracted from their daily work. The policies, once agreed, had not been pushed by the National Managing Partner. They implemented what they could in Sydney but confess that they lost some of that passion that B mentioned as essential to move a large law firm. They plan to use the current implementation of the differentiation policy as the issue upon which they will push again. Being easy to work with is no more than an expensive marketing promotion unless the other policies of mobility, performance review, teamwork are implemented. These require actions from other states, therefore the NSW Managing Partner will inform the Managing Partners of each state and the National Managing Partner that the rollout of the differentiation policy will be delayed until other states act vigorously on all policies. They believe that the firm has to operate on a truly national basis if it is to compete effectively. Their view of the Big Nine firms is that the truly integrated, such as G, are more effective than those, such as E1, E2 and E3 which are not. They have manoeuvred the partnership to accept a suite of policies that give E3 the potential for integration. Once the partnership elects a National Managing Partner who will enforce implementation then he, and the only potential candidate is a man, will gain control over these circuits. The policies potentially fix relations of meaning and membership and provide innovations in techniques of
discipline and production. We have encountered these as I laid out the policies in the paragraphs above.

I have arranged with this firm to maintain contact with it. I expect that within a year the NSW Managing Partner will be elected National Managing Partner and will face the intriguing task of instituting, perhaps institutionalising a form of managerialism that the firm has never before used.

SUMMARY FOR E3

E3 is not coherently organised on a national basis. If one were to prepare a continuum anchored by coherence at one extreme and incoherence at the other, then E3 would fit near coherence but not as nearly as I first suggested. Whilst action is in train for this to occur it will take at least a year before this might happen. The firm demonstrates the intricate inter-relationships of context, provinces of meaning and dependencies of power. It is held in its current confederative configuration by a National Managing Partner who adopts a laissez faire approach. The contextual constraints of the firm include a changing market that demands a rapidly responsive integrated national firm. The strategy papers indicate that other Managing Partners also agree with this intellectually. As they have not acted on their intellectual commitment B and C now believe that they must act to ensure that a National Managing Partner is elected who will lead action. The firm's provinces of meaning are distinct. It values traditional legal ways, guided independence, excellent practice. Any National leader must act consistently with those values. The power dependencies are in contest. The decision by the NSW Managing Partner to delay further implementation of the differentiation policy will bring this to a head. The NSW Managing Partner believes that the firm can be nationally integrated and traditional values emphasised. Paradoxically, this requires national integrative leadership.

There have been no changes in provinces of meaning, indeed the firm's values are publicly confirmed by its strategic marketing. There is however, an inconsistency between structure, systems and the firm's strategy, for the firm's market demands integration but it delivers less than this. The notion of organisational revolution does not apply. There has been change in context, due to deregulation and expectation of
customers. There is a contradictory imperative between the firm's size and geographic spread and its values. Its size and spread suggest integration, standardisation and managerialism whereas its values demand professional collegiate autonomy.

Next we can consider whether the firm's domain, principles and criteria consistently provide coherence in the organising mode. They do, at NSW level, but not at National level. E3's raison d'être is to be a profitable national business that retains professional mores. This is intellectually agreed by partners but without national leadership this agreement does not produce action. The principles by which the firm is organised are inconsistent with this domain. There is uneven but considerable implementation of performance criteria to support the domain. The firm tends to coherence but is unstable. It will remain so until the contest over dependency of power is sufficiently resolved so that the firm can be effectively led at national level.

This chapter concludes the presentation of data\(^{50}\). In the next chapter I provide final interpretations and conclusions.

\(^{50}\) All charts are reproduced in Appendix B to aid the reader's comparative interpretations.
CHAPTER SEVEN:

CONCLUSIONS AND RESEARCH AGENDA

In this, as in the rest of the book, the theme will be to argue for the advantage of theories of action as opposed to those of structure; and for the multiplicity of the bases of action, rather than for the predominance of material interests. MacDonald (1995:1)

INTRODUCTION

In this chapter I provide interpretations of the data that have been explained in the previous three chapters. As I laid the data out I have made interpretations at an increasingly aggregated level. First, interpretations were offered about each firm. Second, I offered interpretations about each stratum of firm. Third, I offered interpretations about three cases for which my method permitted deeper analysis. Now I can offer interpretations across all the data. To do this I refer to claims that were made in the theoretical and methodological chapters, test the data against these and interpret their meaning. Thus, the framework that was first established in Chapters Two and Three is used in this culminating chapter to find patterns in the data. Once this has been done I draw conclusions and comment on the contribution of this thesis to the discipline of organisational analysis.

This thesis analysed the organisation of professional firms in an industry undergoing significant change. Its data were drawn from fifteen firms in the NSW legal industry and a contextual study of the broad industry. The literature reveals that professional firms have not been deeply researched, particularly in Australia, yet despite this lack of research base some of their organising practices are being introduced into complex industrial firms. Thus the area is under-researched yet influential.

In asking, "Why are law firms organised as they are?" I use reflexive archetype theory as the framework within which data are interpreted. There have been no Australian studies that examine these issues or use such a framework although researchers at the Centre for the Professional Firm at the University of Alberta have published frequently on North American professional firms. Their theoretical
framework has informed this thesis. However, their studies have used a less reflexive form of archetype theory than I espouse. Their work has concentrated more upon institutional templates and attended less to the inter-permeation of elements within a firm and its environment than my work has.

During the previous three chapters I identified three major themes that emerge from the data and made some introductory interpretation of how the data contribute to an understanding of these themes. I was limited in that analysis by the stratum of the firms upon which I commented and the need to lay out before the reader all the data before interpretation proceeded too far. In this chapter those limitations are removed.

SUMMARY OF DATA AND CONCLUSIONS ABOUT THE RESEARCH QUESTIONS

In this section I focus closely on each of the research questions that I specified in Chapter Three, as well as the theoretical and methodological framework that the thesis has established.

I explicitly stated three sub-questions in Chapter Three and inferred three more in my discussion of these questions' emergence from theory. These sub-questions can be summarised as:

1. Do the five important possibilities suggested by Ranson, Hinings and Greenwood (1980: 12-13) aid understanding of why law firms are organised as they are?
2. What are the archetypes utilised by law firms (Greenwood and Hinings 1988:309)?
3. Within the social integration and systems integration circuits of power, which characteristics and practices produce systemic variations, and in what types of organisations are these found (Clegg 1989: 213)?
4. What are the relationships between coherence, inter-permeation, strategy, success and organising mode?
5. Are the archetypes that Canadian research has reported, usefully descriptive of Australian data?
6. Are typologies useful in understanding why law firms organise as they do?
COHERENCE OF ORGANISING MODES

The questions concerning 'important possibilities' and organising modes, (one and four), are related in such a way that I can best summarise data and explain interpretations on these issues in an integrated fashion. A central feature of the theory of this thesis is that important elements in the organising process can be identified. These are contextual constraints, provinces of meaning and dependencies of power. They inter-permeate each other and can do so in a fashion that is, in the aggregate, mutually supportive and coherent or unresolved and incoherent.

I argued in Chapter Two that firms will tend towards an organising mode in which contextual constraints, provinces of meaning and dependencies of power are coherent. This followed the advice from Greenwood and Hinings (1993) and was based on the rationale that coherence will promote efficiency and legitimacy and satisfy economic and institutional imperatives. In Chapters Four, Five and Six I was able to settle whether firms were coherent in their organising modes. I did this by comparing data from the firms against criteria for archetypes provided by Cooper, Hinings, Greenwood and Brown (1996) and principles, domains and performance criteria provided by Green and Hinings (1998). I also noted the grand strategy in use by each firm, its level of success and principal causes of organising in these firms (Ranson, Hinings and Greenwood 1980: 12,13). These interpretations are summarised in the following table.

Table 7.1 Organising Modes and Interpretations

<table>
<thead>
<tr>
<th>Firm</th>
<th>Organising Mode</th>
<th>Interpretive comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1</td>
<td>Coherent MPB</td>
<td>A1 is dominated by its founder and adopts a strongly managerialist approach that is integrated by a quality management system. Cost leadership strategy is adopted in this successful firm. There was a major change in the environment for this firm when statutes altered the market. It responded by an organisational revolution.</td>
</tr>
<tr>
<td>A2</td>
<td>Incoherent P2</td>
<td>It adopts this mode more by professional interest and managerial disinterest of its owner than conscious action. It could change if economic circumstances demanded and if its owner was not required to provide more than legal services. Its context is such that A2's merging with a larger firm or a networked legal practice is likely in the medium term. No coherent strategy was noted in this moderately successful firm. There are inconsistencies between values and interests and structuring of the firm.</td>
</tr>
<tr>
<td>A3</td>
<td>Coherent P2</td>
<td>This firm is values driven. Its owner is so imbued with professionalism, as he defines it, that the firm will not adopt</td>
</tr>
<tr>
<td>Firm</td>
<td>Organising Mode</td>
<td>Interpretive comments</td>
</tr>
<tr>
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<tr>
<td></td>
<td></td>
<td>managerial processes even though its economic circumstances suggest that it should. No coherent strategy was noted in this declining firm. This firm has entrenched inconsistencies between values, interests, and structuring.</td>
</tr>
<tr>
<td>B1</td>
<td>Coherent P2</td>
<td>The power of its founding partners, both of whom are huge fee earners, ensures that this firm adopts an organising mode closely tending towards P2. It has been able to grow rapidly and retain this organising mode and its partners intend that this will continue. Focus strategy is adopted in this very successful firm. It was formed due to an organisational revolution, whereby its founders left mega-firms and established this boutique corporate law firm.</td>
</tr>
<tr>
<td>B2</td>
<td>Incoherent P2</td>
<td>This firm is dominated by its Managing Partner who has introduced managerial systems whilst retaining an organising mode which has deeply professional values and tends towards the P2 ideal type. No coherent strategy was noted in this adequate firm. There have been major changes in this suburban firm's environment that have caused it to reduce the number of partners and restrict its practice.</td>
</tr>
<tr>
<td>B3</td>
<td>Incoherent P2</td>
<td>The major fee earner dominates this firm. However there is conflict between the partners as to whether the firm should be more managerialist or more pluralist. Currently, the major fee earner dominates this debate and an incoherent organising mode tending towards P2 is adopted. No coherent strategy was noted in this moderately successful firm. There are changes under debate in the firm's province of meaning due to new partners' admission.</td>
</tr>
<tr>
<td>C1</td>
<td>Incoherent P2</td>
<td>The Managing Partner dominates this firm. It faces decline in two of its major markets and has been analysing this situation for over a year. It tends towards an organising mode approaching P2 but its economic circumstances have the firm searching and subject to change. A focus strategy has been adopted in this adequately successful but threatened firm. There have been major changes in the environment of this firm. The size of the market niches in which the firm specialises have been reduced by changed statutes.</td>
</tr>
<tr>
<td>C2</td>
<td>Coherent P2</td>
<td>The Managing Partner, who is in effect its founder, dominates this firm. He expresses strong professional values that are replicated by other partners. It is tightly controlled but retains collegiality in governance. A cost leadership strategy is adopted in this successful firm. Major changes in the environment caused this firm to de-merge from its interstate partners and organise as now does.</td>
</tr>
<tr>
<td>C3</td>
<td>Coherent MPB</td>
<td>This firm has grown spectacularly in the last six years and is extremely successful. It is dominated by a small managerial coalition of Managing Partner, Senior Partner and General Manager who are energetically and strategically consolidating the firm's organising mode which tends strongly near the MPB ideal type. A cost leadership strategy is adopted in this very successful firm. An organisational revolution has altered this firm to its current organising mode.</td>
</tr>
<tr>
<td>D1</td>
<td>Coherent MPB</td>
<td>Its founder and long term Managing Partner dominates this firm. It has adopted an organising mode that tends determinately towards the MPB ideal type. A focus strategy has been adopted in this very successful firm. There was a major change in the statutorily controlled communications industry in Australia. DI organised to focus in this industry and it is this focus that continues to dominate its affairs.</td>
</tr>
<tr>
<td>D2</td>
<td>Incoherent MPB</td>
<td>This firm is moving its organising mode towards the MPB ideal</td>
</tr>
<tr>
<td>Firm</td>
<td>Organising Mode</td>
<td>Interpretive comments</td>
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<tr>
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<tr>
<td></td>
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<td>type. However due chiefly to decline in part of its market, the conservative values of partners, and a previous failed managerial experiment, this progress has been strategically delayed by its dominant coalition of Senior Partner, Managing Partner and managerial staff. A focus strategy has been adopted in this successful but threatened firm. Aggressive competition from law firms and other professions in its major market niche, the finance industry, has caused this firm to consider its organising practices. There is inconsistency between the values and interests of the partnership and its structuring.</td>
</tr>
<tr>
<td>D3</td>
<td>Incoherent MPB</td>
<td>This firm is moving towards an organising mode that will be near the MPB ideal type. However, currently its market threats consume its interests and it has much to do if it is to integrate the efforts of its partners' practices. It adopts a focus strategy and is under threat. This firm is an almost identical situation as D2. It operates in a market niche that is extremely competitive. Its partners have contested values and interests that are inconsistent with its structuring imperatives.</td>
</tr>
<tr>
<td>E1</td>
<td>Coherent MPB</td>
<td>This firm has a coherent organising mode that tends closely towards the MPB ideal type. It is a long established firm with conservative values but a recent partner scandal has led it to energetically tighten its controls. This very successful firm adopts a focus strategy. Several famous liability cases affected the environment of this firm. Most prevalent in the discussions of partners was the P Affair that effectively caused organisational revolution in this firm.</td>
</tr>
<tr>
<td>E2</td>
<td>Coherent MPB</td>
<td>This firm has a coherent organising mode that tends closely towards the MPB ideal type. It has been innovative in its attempts to diversify and to specialise its management team. This very successful firm adopts a differentiation strategy. An organisational revolution has occurred in this firm. It has energetically pursued managerialist organising by appointing non-professional executives at strategic level.</td>
</tr>
<tr>
<td>E3</td>
<td>Coherent MPB</td>
<td>This firm has a coherent organising mode that tends closely towards the MPB ideal type. Interestingly it believes the traditional values of the professional can help it differentiate from competitors. Paradoxically it is attempting to manage these values so that it appeals to its market. This very successful firm adopts a differentiation strategy. It faces contradictory imperatives of situational constraints. It is very large and national, which drives it towards bureaucratisation, but its clients require it to be responsive in an organic way.</td>
</tr>
</tbody>
</table>

The "five important impossibilities" identified by Ranson, Hinings and Greenwood (1980: 12,13) were useful in forming judgements as to causes of organising. Each of the possibilities that they presented was noted. However, to suggest that these were the singular cause of organising would be unacceptable reduction. The possibilities lead me towards answering, "Why are law firms organised as they are?" but are insufficient in themselves. One uses these important possibilities to consider why a firm organises as it does, one considers the elements and their inter-permeation. Influential actors interpret elements and these interpretations affect the responses of firms. For example at A1 its principal interpreted the opportunity of total quality
management as defining the way his firm should be managed. He proceeded to
systematise the firm so that it accorded with his vision. He could only do this due to
his domination of the firm's circuits of power which were consistent with the
province of meaning he actively promoted within the context of a declining market
segment. All of these issues inter-connect and are interpreted reflexively. In this
analysis, the realisation that one of the 'five important possibilities' is implicated in
organising invites the analyst to attend to reflexivity, inter-permeation of organising
elements and the complexity of organising.

These data can be further refined so patterns become apparent. In the following table
I have set out each firm and indicated coherence, the elements of organising that are
chiefly\(^{51}\) implicated in each case of organising, strength of strategy, degree of
success.

<table>
<thead>
<tr>
<th>Firm</th>
<th>C or I</th>
<th>Context</th>
<th>Values</th>
<th>Power</th>
<th>Strategy</th>
<th>Success</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Strong</td>
<td>Weak</td>
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<td></td>
<td></td>
<td>High</td>
<td>Low</td>
</tr>
<tr>
<td>A1</td>
<td>c</td>
<td></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>A2</td>
<td>i</td>
<td></td>
<td>✓</td>
<td></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>A3</td>
<td>c</td>
<td></td>
<td>✓</td>
<td></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B1</td>
<td>c</td>
<td></td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>B2</td>
<td>i</td>
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<td>B3</td>
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<tr>
<td>C1</td>
<td>i</td>
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<td>✓</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>C2</td>
<td>c</td>
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<td>✓</td>
<td>✓</td>
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</tr>
<tr>
<td>C3</td>
<td>c</td>
<td></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>D1</td>
<td>c</td>
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<td>✓</td>
<td>✓</td>
<td>✓</td>
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</tr>
<tr>
<td>D2</td>
<td>i</td>
<td></td>
<td>✓</td>
<td></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D3</td>
<td>i</td>
<td></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>E1</td>
<td>c</td>
<td></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>E2</td>
<td>c</td>
<td></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>E3</td>
<td>c</td>
<td></td>
<td>✓</td>
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<td>✓</td>
</tr>
</tbody>
</table>

This table demonstrates that all firms that adopt a coherent organising mode, except
A3, have strong strategy. All coherently organised firms, again except A3, are highly
successful economically. A3 is a sole practice whose owner knows that the firm is

\(^{51}\) I hold strongly to the view that each element is interdependent. Nonetheless, in most firms it is
possible to note that one element seems more influential in the current state of affairs than another.

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declining economically but is not yet in crisis. Moreover he values traditional ways, is unwilling to change and sufficiently comfortable to withstand negative growth in his firm until he retires.

All the firms that are coherently organised approach the MPB ideal type, except for B1 and C2. B1 is owned, chiefly, by two of the most sought after lawyers in corporate commercial work in Australia. This star status has enabled them to assemble a group of extremely talented lawyers and to promote a collegiate organising mode. C2 is recovering from a financially fraught dissolution of partnership. Its partners look upon this time as an exceptional emergency period and have subjugated collegiality to efficient management. In effect they are using managerialism with the intent to regain a balance of collegiality once their financial crisis is weathered.

It is instructive to view the firms arrayed on a continuum that allocates their tendency relative towards either the P2 or MPB ideal type and then compare this to a matrix that measures their strategy type and strength. These displays follow. The first sets out the organising modes of firms and assesses these comparatively against ideal types. As I mentioned in Chapter Three, this construct aggregated from interpretations of single firms against the criteria for archetypes (Cooper, Hinings Greenwood and Brown 1996) and against each other. Firms are ranked comparatively. They are not scaled. The continuum is divided to highlight ranking and not to suggest exactitude of rating.
Diagram 7.1 Organising Modes and Ideal Types

The second sets out the strategy type and strength of commitment to that strategy. For example both E2 and E3 are pursuing differentiation as their predominant grand strategy but E3 is stronger in its commitment to this strategy. C1 is attempting focus but is relatively weak in this strategy. The generic strategies are those suggested by Porter (1990) of cost leadership by which he means internal efficiency that creates profit margin, focus, by which he means concentration on a particular type of buyer or product, and differentiation, by which he means marketing and product or service delivery that qualitatively separates the firm from its competitors. I have added general practice, which describes firms that have not adopted a coherent strategy to these Porterian terms.
The data indicate that coherence of organising mode is related to success and commitment to strategy. This finding is consistent with research findings set out in Chapter 2 of this thesis, particularly those of Hinings and Greenwood (1993) who argue that economic and institutional realities will favour firms that have coherent organising modes.

It is hardly surprising to say that firms in a declining market must act strategically if they are to succeed. I do not mean to say that strategy determines structure (Chandler 1962). That is far too reductionist a viewpoint. The cases however indicate that for law firms to accept strategy at a level whereby it will be implemented requires a balance between contextual constraints, provinces of meaning and dependencies of power. B1 for example, can only adopt its P2-like organising mode because its external environment provides one huge continuous client and many large discontinuous clients. It is small. Its partners' values are consistently professional.
Its power is concentrated in its two chief rainmakers. D2 on the other hand, faces an environment that demands strategic response to competition but its partners' values and interests do not consistently agree to this structuring and despite economic threat it has not acted yet.

Firms can adopt strategy because there is a balance between their elements. I have observed that law partners often agree to strategy but do not enthusiastically implement it. This mock strategy probably conceals contests over values or interests and it is instanced in A2, C1, D2, and D3. On the other hand, the firms I noted as successful are enthusiastically implementing their strategy. It drives these firms and this action, which is only possible due to a balance of elements, galvanises the firm. These data emphasise the reflexive nature of organising. There are reflexive connections between elements that make coherency possible. These are always subject to interpretation by influential actors within firms.

I was struck by the rapidity with which successful firms implemented strategic change once they had agreed it. Less successful firms on the other hand would agree to strategy, almost like an election manifesto, but not implement this mandate. There is debate in the change literature as to whether firms ought to change rapidly, which Kanter (1983) refers to as 'short sharp cuts', or gradually, which she calls 'long march'. The data indicate that the successful law firms took a long while to determine strategy but once they did so, were very rapid in implementing it. These data are probably related to the form of legal firms, with their partners operating as an electorate that slowly debates and analyses policy, then assigns a mandate to leadership to implement. In instances in which the leadership did not have control over the dependencies of power then action was delayed. These data could be mistakenly interpreted as some form of transformational leader theory of change. This is not my interpretation. The data lead me to conclude that leadership is enabled by the inter-permeation of elements and may be diffused within a group. The emphasis is less on a leader doing and more on elements enabling leadership.

It is within circuits of power that an analyst gains an understanding of why strategy is promoted or delayed. The deep case of E3 revealed that in this large national firm policy had been agreed but not fully implemented due to political considerations.
This too highlights the inter-permeation of contextual constraints, provinces of meaning and dependencies of power. It also indicates differing action in professional fields. Interestingly, when Brown, Cooper, Greenwood and Hinings studied strategy in accounting firms they were to note that there was much less of this sense of persuading an electorate which mandates leaders than in the law firms I studied. One could speculate that this may relate to the relatively stronger influence of law partners than accounting partners in their respective fields. It is possible that the circuits of power within law firms are significantly different than they are in other professional firms. I suspect so. This is one of those datum that suggest further, well structured study rather than speculation. I believe that the relative differences between professional firms within professions have been insufficiently attended and suggest further research in this comparative field. It should be possible to attend to this by studies that specifically attend to the circuits in separate professions. I specify two such projects later in this chapter.

Making strategy an agenda item requires leadership that is most often provided by a dominant coalition of interested agents and it is this coalition that assigns the responsibility of implementation. At E3 there was contest between the existing national leadership and a coalition supporting the NSW Managing Partner. It is likely that E3 will not fully implement the strategy it has determined until this contest is resolved. Once again, within the coherent firms, leadership was implicated in implementation but there were also firms that exhibited incoherent organising modes but had strong leaders or leadership teams. In particular one could point to C1, D2, and D2. C1 has a strong but ineffective leader. At least he is ineffective in leading the firm from its current under performance. He has centralised power and maintains the firm's focus on conservative practices even though market changes indicate that he should not. On the other hand, both D2 and D3 seem temporarily delayed on a journey towards coherence. Their leadership seems currently best served by delay. Leadership is an important issue of capability to change (Walsh, Hinings, Ranson and Greenwood 1981) rather than the driving force in change as some suggest\footnote{This also reminds us of the importance of temporality. I am led to ask, "What would the data look like at D2 or D3 in a year's time?" I suspect that they both will be coherently near MPB in organising} (cite USA stuff on transformational leadership).
In Chapters Four, Five and Six I introduced two themes: coherence of organising modes and the intersection of values and context. They are intertwined, for this second theme is vital to understanding the coherence of organising modes. The first impression one gains of the data is that the contextual issue of size does affect organising mode. This piece of industry common sense was frequently suggested to me during conversations with lawyers. All firms from the largest two strata adopted organising modes that approached the MPB ideal. The industrial common, practically conscious, sense of this is that it becomes too difficult to retain collegiality of decision making in firms of these sizes and that it is crucial to install systems of accountability rather than rely on professional oversight of partners. Below this size one knows one's partners and their practices, but above it you must organise corporately, so the folk knowledge runs.

Nevertheless, in the cases one notes smaller firms such as A1 and C3 adopting organising modes that closely approach the MPB ideal type. So, whilst it is true that larger firms adopted this form so too did smaller firms. Size cannot explain both sets of data. One however notes the intersection of context with values in all these firms. Both A1 and C3 have contexts that strategically suit an MPB style organising mode but they also have values systems that legitimate managerialism. Both firms specialise in insurance work, though on either side of the argument. The only other firm that specialises in this field is C1.

A1 and C3 are successfully growing firms whereas C1 is economically stalled. A1's principal is evangelical in his acceptance of total quality management. He credits it with getting his firm closer to the customer, a characteristic vital in the personal injury field. Similarly, C3 has grown spectacularly in the insurance field chiefly due to its managerial innovations. In these circumstances one finds very high acceptance by partners and staff of the values underlying organising modes approaching MPB. So, I would have to say that size probably disposes firms to adopt organising modes close to the MPB ideal but that context and values must be congruent for this to
occur. One can confirm this interpretation by recalling cases D2 and D3, in which
organising modes are incoherent due to contest over values and contextual incidents.

The data reveal that values seem important in the interpretation of context by
principals of firms. For example, B1 so values operating as a professional partnership
that it is willing to trade off efficiency to this cause, whereas C2 believes that it must
first be efficient before it can practise interesting law. One finds at every stratum
these intriguing intersections. Partners interpret context from values positions that are
affected by the very context which they interpret. This confirms the reflexivity that I
have argued is theoretically important. Influential actors interpret context from
values positions and achieve what they can within the organising practices of the
firm.

In summary I can say that the coherence of organising modes is a complex
phenomenon. Organising modes tend to coherence because of demands for both
efficiency and legitimacy. Organising is a cooperative process and influential
individuals interpret the elements in a practically conscious way (Giddens 1984).
Accordingly, they 'go on' with practices that are likely to be institutionalised.
Coherence occurs when there is a balance between contextual constraints, provinces
of meaning and dependencies of power. There is an elective affinity between
strategy, coherence and success. This is neither linear nor circular. Coherence and
stability will be threatened when changes to the elements occur and strategy and
success depend reflexively on all else.

CIRCUITS OF POWER

The third sub-question related to Clegg's (1989) circuits of power theory. Perhaps
because of the partnership business form, which these firms adopt, circuits of power
are more overt here than in industrial organisations. Partners are, at the same time,
both operatives and owners. They have an equitable, as well as professional, stake in
the business. Similarly, professional staff are potential equity partners. If one adds to
this a profession that makes argument and negotiation an occupation, then one starts

53 As I discussed in chapter two my theory provides bridges between tribes of organisational analysts.
Here is one such bridge, across which could travel, institutionalists and organisational economists.
to make sense of the overt contests for dependencies of power found in law firms. Most partners and many employed lawyers look upon their work as their, in a proprietary sense, practice. They do not take kindly to having their practice subjugated to the overall needs of the organisation as defined by the prevailing coalition. These factors combine to form arenas in which concerted action is problematic yet essential. The data indicate that those in the firms investigated chose different ways to organise concerted action depending on reflexive interpretations.

The first of these ways is dominance by a partner. Typically this partner will have accrued special cachet through historical context and performance. Chief in historical context are whether the dominant partner is founder as in the case of D1, or name partners as in B3, C1, C2, D1. Performance is most often measured by billings or enabling billings. One can be a rainmaker, star, big hitter or magic maker, as the profession refers to those who attract much more business than peers, without being dominant. Nevertheless, such people will always be noticed and lobbied, for partners rarely offend those who make them wealthy.\(^5^4\) The only instance in which a partner was dominant and also rainmaker was B3. At D1 however, I noted that the dominant partner had been chief rainmaker but now concentrated upon management of the firm, thereby enabling performance. It seems that dominance by one partner is achieved by that partner controlling vital nodal points in the circuits of power by which social integration is achieved. By this formulation the partner at D1 is potentially more powerful than any other so far mentioned, as he is founder, name partner, ex-rainmaker and performance enabler. One also notes dominance that is benign and leads to firms' success, as with B3, C2 and D1; or malign and is stagnating the firm, as in C1. Even still the matter is not clear-cut as the dominant partner's behaviour in B3 is so divisive that in a different context it would ruin the firm.

The most frequent organising arrangement is for a coalition to dominate the firm. It gains this dominance by occupying necessary nodal points in the social integration circuit such as I have named above. We find at B1 a coalition that contains two of the

\(^5^4\) Nevertheless, C3's Board has adopted a policy recognising that rainmakers can be dispensed with, if they act contrary to the firm's values and strategy.
founders, who are the name partners and also rainmakers. B2's coalition consists of name partners, one of whom is the enabler. Both B1 and B2 operate in a collegiate fashion but the coalition in both firms is seen as *primi inter pares*. At C3 we find a coalition of the Chairman of Partners who was chief rainmaker and, in effect, introduced the firm to its method of success, a Managing Partner who practises little or no law so that he can lead the firm, and a General Manager, a non-lawyer, who ensures strategic implementation. At D2 and D3 we find similar though less forceful coalitions. Whilst at E1, E2, E3 we find coalitions that are similar as well as temporary coalitions constructed for special events in the life of the firms.

So, is a possible explanation of dominance, that a partner will be deferred to because of billing's success, will be offered a position of leadership and will henceforth dominate? If this were so it would be a variation of some form of 'strong leader' theory by which, (in this instance mercenary), charisma propels one to power. The data do not support this hypothesis, as a connection between economic success and power in the firm is also noted in coalitions of power in which individuals do not dominate. Additionally in one firm, C1, individual dominance was not producing economic success.

It is worthwhile at this stage of interpretations to recall the model of circuits of power first introduced in Chapter Two. It is reproduced below.
Figure 7.1 Circuits of Power

The data indicate that the agency circuit of power is dominated as a consequence of dependency of power. It is spoil of contest rather than essence of contest. Partners dominate individually or through coalition and because they do, gain the right to allocate resources. Or at least it appears that way if one attends to the aftermath of conflict. If one attends during conflict when ground is being disputed or defended then one notices the battle for resources, but a battle is not a war.

This can be illustrated by recalling the case of C3. The managerial coalition acted with despatch to control expenditure in the firm. It limited partners' discretions and defined delegations that empowered the managerial coalition. Remember though, that there was an ensemble of policies determined at that firm during a short period of time. Some of these smoothed the affairs of the partners; for example changed finances so that owed drawings could be paid. These can be seen as attending to the electorate and delivering results through managerialism. Others can be seen as controlling obligatory passage points; for example, establishing a nomination committee that screens lawyers before they are considered for admission to partnership, or establishing a performance review system. Both of these are dominated by the managerial coalition that effectively define the rules of practice, particularly in C3's Strategic Plan. This firm has even had its values codified by Board fiat on the recommendation of the managerial coalition. Why do other partners let them do this? Because none of the actions chafe enough to cause reaction. Because the actions seem reasonable. Because opposition on one issue must be weighed against lack of reciprocal support on another matter. Most importantly because the coalition has returned favourable economic results to its electorate and there is no feasible alternative to its leadership.

To understand organising modes in firms one must attend to circuits of power. Thus far we have considered the agency circuit and the social integration circuit. The third of these can also be illustrated by reference to C3. This firm specialises in insurance and several of its market niches can be closed if legislation alters. Its Chairman occupies several influential positions within the legal environment from which he can learn of legislative proposals and influence decisions. He is the Treasurer of the NSW Law Society and will be its President soon. He is on the Board of the NSW Law Foundation and will be its Director soon. He maintains strong connections with
the trade union movement, particularly its researchers and permanent officials. He is well connected with the current Labor Party State Government, particularly its Attorney General and his advisers. He is influential with the Australian Insurance Council and chief executive officers of most of Australia's major insurers. Each of these nodes provides the firm with influence that he uses strategically. He argues that partners should spend less than 25% of their time practising law and that Chairmen should be excused that high a percentage so that they can attend to the political climate of the firm. Thus the firm affects the systemic circuit of power. It establishes influence at nodal points in the systemic circuitry at which information is collected, interpretations made, decisions taken.

One notes very similar, systematised behaviour at D1, E1 and E2 which ensure their lawyers are influential at the Law Society and amongst the political network. D1's Managing Partner is a member of the Law Society, Chairs the NSW Law Foundation and the Law Clearing House, is closely associated with media issues that permit his firm influential voice. E1 is similarly connected to the Law Society and politics and has established an alumni system whereby it tracks those that leave it and keep them informed of the firm's activities and needs. E2's Managing Partner is a member of the NSW Law Society Council, heads its Best Practice scheme, publishes frequently on managerial issues and has established an alumni system in his own firm that is similar to E1's but more pro-active. At E2 lawyers are expected to establish positions of influence as part of the journey to partnership and this is considered when assessing them for admission.

Thus, the circuits of power model is most appropriate to the interpretation of law firms. It provides a framework by which one can trace activities that establish dependencies of power and appreciate complexity and interconnection. Nonetheless, I must admit that this has been the most difficult part of reflexive archetype theory to operationalise. If one limits analysis to the agency circuit then difficulty abates and nodes can be readily observed. However, the social integration circuit is a gestalt rather than an element. Deeply considered the social integration circuit defines the meaning of the firm. It is therefore the outcome of contests for dependencies in the arenas of provinces of meaning and contextual constraints. This is consistent with my concepts of reflexivity but it, more than values or context, is difficult to apply as an
element in organising modes. It seems to me now as calling for study that is specifically about power in law firms. Were that to be done I believe reflexive archetype theory would assist analysis.

In the theory chapter I criticised archetype theorists (Greenwood, Hinings 1993) for their lack of concern about power. I noted that their interest was, in the main, restricted to resources dependencies. My thesis has painted in power much more strongly than that, yet I feel more is needed. Law firms would be good sites to operationalise circuits of power more fully. This would require ethnographies that closely attended to the biographies of partners, networks of influence, structures, disciplines of partners and staff. Until this can be done my method and theory is an improvement on archetype theory. It puts more flesh on the concept of dependencies of power than did structuring theory (Ranson, Hinings and Greenwood 1980) or archetype theory (Hinings and Greenwood 1988), and it operationalises a model which has not been empirically tested in this context before, but it is more reductionist than I had hoped. This is exacerbated in the systemic circuit in which I simply had insufficient time, influence and access to trace the circuit in a sufficiently deep way. Nonetheless, I am reassured that the issue I pursued was, "Why are law firms organised as they are?" Part of the answer will come from circuits of power but power is not all there is to know about organising. My reassurance comes from the knowledge that circuits of power enabled me to capture better data about dependencies than are normally presented when professional firms are considered and that I could include this as part of the ensemble that is organising mode.

I can now return specifically to the research sub-question, "Within the social integration and systems integration circuits of power, which characteristics and practices produce systemic variations, and in what types of organisations are these found?" To amend a system requires more than dominance of the agency circuit of power. As I have argued above, this is spoil of contest rather than reason for contest. Those firms that have been innovative in the way they organise: A1, B1, C3, D1, E1, E2, E3 have clearly established coalitions of power or are individually dominated in the social integration circuit. They have been able to set up systems and structure

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55 Clegg (1989) equates systemic variation with social innovation.
that enable them to capture obligatory passage points, which eventually establish and continuously reinforce the rules of practice.

A1 uses quality management to establish a way of doing business that ensures continued dominance by its principal. Two rainmakers, who are so renowned in legal practice as to be exceptional, dominate B1. Within the focus of their business, corporate commercial practice, their firm is unusual as it adopts an organising mode nearing P2, whereas all such others in my database approach MPB. C3 has a tight coalition of Managing Partner, Chairman of Partners and General Manager that has strategically occupied the passage points of strategy determination, performance review, partner admission, partner progression, financing. Its Managing Partner dominates D1. E1 is becoming much more controlled by its managerial coalition that has authorised tight risk management due to a context dominated by a recent embezzlement scandal. E2 has appointed a specialist Chief Executive Officer from an international consultancy firm and has used this appointment to drive forward policies that its Managing Partner has publicly promoted for several years as essential for a mega-firm. These two and their consequent appointments are driving the firm similarly to those at C3. E3 is in the process of differentiating itself from other mega-firms by emphasising collegiality in a large firm and providing changed support to its clients' corporate counsels. In all of these instances the coalition or individual has changed systems by dominating obligatory passage points in the firm and thereby establishing rules of practice. These innovations have not diffused throughout the legal system even though partners at these firms are extremely influential.

The one feature that is present in each of these firms is strong strategy. B1 is the only successful firm that does not exhibit the systematic approaches to strategy that the industrial literature might suggest. For example, it has not prepared a written and agreed strategic plan but it does operate strategically due chiefly to the talent of its name partners. I would argue therefore that systemic variations occur within firms that are strategically focused. In this thesis I am unable to answer how such variations are diffused throughout the industry, though later in this chapter I will suggest a research project that could do so.
ARCHETYPES, TYPOLOGIES AND COMPARATIVE RESEARCH

I can now turn to the final three sub-questions that I posed. These concerned the identification of archetypes, the usefulness of typologies and the applicability of research on professional firms in one national context to another national context.

The first of these sub-questions asks, "What are the archetypes utilized by organisations?" My method precludes an answer to this question as it is put. However, if it is modified to, "What organising modes are used by organisations and how do they compare to reported archetypes?" I can offer an answer and demonstrated this in Diagram 7.1. Amongst firms of medium to large size, (strata C, D and E), an organising mode approaching MPB was most frequently chosen. Smaller firms tended to adopt organising modes closer to P2. There were exceptions to this, and as I have commented earlier, I doubt that there is a simple relationship between size and organising mode. The concepts of organising modes and archetypes permitted me to construct a typology of the firms. This typology was powerfully useful for interpretation and enabled me to compare firms on a continuum. It opened research possibilities for tracking an industry longitudinally.

There are delimitations on the interpretations that I can offer to the related question, "What tracks do organizations follow through time, how stable are they and what are their frequencies?" (Greenwood and Hinings 1993) as it was not central to this thesis. Accordingly my method was not sufficiently historical to note at each firm organising modes that were extant at several times in their medium past. The data were collected over a period of two years and I can comment on contemporary circumstances.

Within the cases that I examined I noted inertia of organising modes, A2, A3, B1, and C1; rapid journey towards an ideal type qua archetype A1, C3, D1, E1, and E2; wavering as if between journeys, at B2, B3, D2, D3, and E3. Greenwood and Hinings (1988) predicted that one would find tracks of inertia, rapid change and schizoid. The data in these cases confirm their prediction. Inertial organising modes had been stable for at least two years, whereas the others were recent phenomena. As to frequencies, one must bear in mind that my method involves writing case studies and must accordingly be delimited. I have noted the frequencies above, but I do not
claim that this pattern will be found in the industry more broadly. Future quantitative research would attend to the issue of frequencies.

One should also recall that Greenwood and Hinings (1988) argue that organisations trace out tracks through time. Reflexive archetype theory would hold that they do this through a combination of elements in organising modes, each of which inter-permeates. In my summary at the start of this chapter I have highlighted instances in which one or another of these elements tended to influence the organising mode that evolved in a firm. That is to say, at the time of the research, this element was more attended to by actors in the firm than others were.

To analyse tracks one is faced with a methodological problem. If one concentrates on one's research at a time, Tn+1, and uses qualitative method, then one can describe an extant organising mode. This can be ameliorated by historical analysis that gives some impression of tracks as with B1, C3 and E3. In these instances the case analyses have been extended to a period Tn+1 ⇒ Tn+2. So for these cases temporal patterns can be found. These indicate that a coalition of power strategically interprets contextual circumstances and moves the firm towards an organising mode that is broadly consistent with the values of the partners. I noted the same for all the other cases I collected, even when longitudinal data were scarce. These data lead me to suggest that tracks are followed because of a contest for power and that the dominant coalition strategically interprets context and leads the firm to adopt an organising mode that is possible, given the values of partners. There is a marked attention to the electorate of partners. Coalitions embark upon persuasive management. This was particularly noted at the deep cases, B1, C3 and E3 because the method so permitted. Each of these firms had institutionalised ways by which the managerial coalition garnered support for their plans prior to implementation. B1 prided itself that this was done informally whereas the other firms had elaborate strategic review programs.

It is here that one finds the concept of archetype as an institutional template particularly useful. The influential in law firms, chiefly the partners, have learned correct behaviour, including how law firms should be organised, by their life in the law. Factors such as socialisation, university experience, Law Society rules,
continuing legal education, myths, metaphors of the law and professionalism compound to form templates in which lawyers 'go on'. They may do this discursively and/or practically but they share and promulgate these views of normalcy. They constitute and are constituent of the structuring to which these templates contribute. So when an influential coalition attempts to change the way a firm organises it faces an electorate that has views on normalcy.

Cooper, Hinings, Greenwood and Brown (1996) argue that they have noted two such templates as archetypes in the Canadian legal industry. They present data to show that one of these, Professional Partnership or P2, is prevalent whilst another, Managed Professional Business or MPB, is emergent. Their work concentrated on large law firms whereas my work includes a range of firms from the very small to the very large. My theoretical and methodological approach permits me to produce a typology of firms arrayed in accordance with organising modes (see Diagram 7.1). As I have mentioned earlier, organising modes approaching MPB were more prevalent in larger firms than in smaller firms. This may be because resources to install strategy and employ specialists are more readily available in these firms and the values of partners that predispose them to collegial governance are ameliorated by market considerations, liability, physical separation and numbers of partners. Interpretations of the Australian data are strengthened by typologising and comparisons with Canadian research.

WHY ARE LAW FIRMS ORGANISED AS THEY ARE?

Whilst answering all the sub-questions I have offered interpretations that cumulatively answer this main question. Law firms are constituent and constitutive of their society. They are organised in modes that are reflexive of provinces of meaning, dependencies of power and contextual constraints. Their institutional field contributes structuring templates as an important part of their external contextual constraints. These templates are formed reflexively as those within the firms have differential power to affect coercive, normative and mimetic forces.

Their market environment contributes imperatives that constrain the firms to stability or change. Within the firm contingent factors constrain those who are influential in
the way that the firm may be organised. Geography and size are two such contingent factors that constrain the influential to decide strategy and systems that will balance with other contextual constraints. Dependencies of power are established and maintained by influential coalitions or individuals by contests in circuits of power. These coalitions interpret contextual constraints and provinces of meaning as they persuade their electorate to act in a concerted fashion.

Those in the electorate are variably committed to the agenda of the coalition and this commitment is variably contested. Provinces of meaning are significant in these contests. Lawyers are knowledge workers. Their practice is learned from professional templates ameliorated by the values espoused by the dominant coalition within the firm. Provinces of meaning are ideational constructs with variable understanding, interpretation and commitment formed by those in the firm. Each of these elements inter-permeates all others. Actors are practically or discursively conscious of these elements and their ensemble.

We can note that some firms' organising modes are coherent whilst others are incoherent. Coherent organising modes are sought by influential coalitions as they promote efficiency and legitimacy. In all of this actors interpret the elements and organise as they are capable within their mutual constraints. The data indicate that law firms organise complexly. The elements of power, values and context inextricably inter-permeate and form an ensemble that is the firm's organising mode. This is the core issue of this thesis, both theoretically and empirically.

**WHAT IS THE STATUS OF REFLEXIVE ARCHETYPE THEORY?**

Reflexive archetype theory has proved to be robust in the gathering and interpretation of data. Its reflexive nature has made these tasks complex but is the main basis of its robustness. Kuhn (1962) has warned that scientists find patterns in their data to confirm prevailing normal science within their scholarly community. Whilst the organisational analysis community has been prone to this, it has promoted fissiparous tribes rather than an integrated community. In Chapter Two I identified tribes that concentrate on one part of organisational life over another. Thus, for some, structure or culture may be presented as the essence of organisation. Reflexive
archetype theory consciously avoids this tendency to reductionism. I recognise that analysis demands some form of reduction but have been able to identify elements that meld into organising modes and concentrate upon this reflexive ensemble rather than its elements.

Some aspects of this have been more successful than others. The concept of an organising mode has successfully emphasised the process of organising, the ideational nature of organisations and the contested nature of agreement. Within this scheme I have been able to demonstrate the relationship of coherence, strategy and success. Reflexivity and inter-permeability have proved most powerful both to the analyst and the subjects. Lawyers are comfortable with complex argument, and, unburdened by organisational analysts' norms, reported the scheme helped them understand their organising. Contextual constraints can be traced within and without the firm as can provinces of meaning. Dependencies of power have been usefully interpreted within circuits of power, though as I have observed, the systemic circuit requires a dedicated deep concentrated analysis.

OPPORTUNITIES FOR FURTHER STUDY

Whilst in the previous section my chief task was to draw conclusions I also identified some opportunities for further study. I will return to each of those in the order I followed above and add to them with research opportunities that emanate from theoretical considerations. Subsequently I will summarise the opportunities in a research agenda. I will do more than outline areas that deserve further study I will specify when and how I could study these, because the thesis has provoked, at least for this researcher, a passion to inquire into professional fields over the long term. The legal industry directly expressed its interests in this research when three very successful firms suggested projects of collaborative work.

First, I noted that the relative differences between professions have been insufficiently attended and suggested further research in this comparative field. Canadian researchers from the University of Alberta are working on the re-definition of professional institutional fields. Necessarily, some of these data are comparative between accounting and law. But that is not the chief purpose of their study. My thesis has shown that there are significant differences in the contextual constraints
and dependencies of power between these professions, and I suspect provinces of meaning also vary. These two professions, because they directly compete and attempt to colonise each other's territory, would recommend themselves as commencing projects. However, this should be extended rapidly into other professions, such as architecture, medicine, and engineering. The project would require collaboration between teams of researchers if it were not to take so long as to reduce utility. It would be a long term project that compares constraints between professions.

Second, I observed that law firms would be good sites to operationalise circuits of power more fully in a project dedicated to analysing power. Were that to be done I believe reflexive archetype theory would assist analysis. This project would require ethnographies that closely attended to the biographies, networks of influence, structures, disciplines of partners and staff. My database could contribute to this study, once proper controls were agreed. It suggests itself as an ideal research project for a doctoral student associated with a supervisor deeply interested in power.

Third, I argued that systemic variations occur within firms that are strategically focused but that I was unable in this thesis to answer how such variations are diffused throughout the industry. I predicted that the institutionally tight environment of law firms would cause slow acceptance of innovative organisational practices within law firms but rapid transmission of these practices once they are accepted. The data support this claim equivocally. Within firms there is slow acceptance of innovative practices but once accepted they transmit rapidly. This does not seem to be an industry phenomenon. Most firms in the selection were conservative. Change was long debated, analysed and delayed. About a third of the selection was innovative but except at the largest stratum there was little diffusion of these practices. This calls for further study. Diffusion of innovative practices within the legal industry would be a worthwhile study that could be usefully extended by comparing the diffusion of similar practices in other professions and thereby linked to the first project I identified.

It is problematic that an industry so threatened by market circumstances is, on the face of it, so resistant to organisational innovations. For example, C3 operates in a
niche of law that is highly competed and has been restricted by statute. Its organising practices are generally known within the industry. Yet I can point to two firms in my cases that are under threat and have been unable or unwilling to copy these ways. Schumpeter (1934) tells us that firms which innovate reap super profits, thus encouraging other firms to copy their ways. It follows from this argument that the practices become transmitted in the industry. Thus one could employ institutional theory in concert with innovation theory to examine the issue of diffusion. This is vitally important for the legal industry and the economy.

Ideally such a study could be conducted complementarily with a study on the dynamics of change. In Chapter Two I argued that professional firms provide insight into organisational change. Whilst this thesis attends to why firms are organised as they are, the issue of change is ubiquitous. Whenever we organise we do so for stability but know that we will adapt the practice as circumstances dictate, or more accurately, as we interpret circumstances. The data reveal that law firms are rich sites to investigate change, in which values are explicit, power relatively overt and context complex. The interplay of institutionalised professionalism and market conditions provides dialectic in which change strategy is decided. A study of the dynamics of change will require considerable attention to the capability of firms to change. Ethnographies of several firms and longitudinal survey of an industry could mount it.

I have secured agreement with C3 to observe the dynamics of change as it implements its strategy over the next three years. The study involves collaboration with an international researcher renowned in this field and employs a nested research design. I will conduct ethnographic study at C3 and also field longitudinal surveys on the elements of organising modes over three years. A doctoral student will conduct comparative deep case collections at four other firms during this time and we will field surveys into the largest one hundred law firms in Australia. A research assistant will gather contextual data on the industry during this time. All these data will be compared with Canadian data. The ethnography will provide data on the institutionalisation of organising practices. These can be compared with the deep cases and the survey data. I expect to observe transmission of institutionalised practices. In effect this project will provide answers about diffusion without specifically addressing innovation theory. Its chief drawback from an industry
perspective is that it will occupy four years. The separate but related project would be a short term study of diffusion that emanated from the thesis database and was informed by the dynamics of change project.

Fourth, the concepts of organising modes and archetypes permitted me to construct a typology of the firms. This typology was powerfully useful for interpretation and enabled me to compare firms on a continuum, as I demonstrated above. It opened research possibilities for tracking an industry longitudinally. Typologising would be a chief technique that would be incorporated into the dynamics of change project. The annual surveys would provide typological data that helped answer the question of transmission.

Fifth, I delimited my claims to the fifteen cases. One cannot generalise from case data. Whilst I noted the frequencies of organising modes in my collection I do not claim that this pattern will be found in the industry more broadly. The future quantitative research in the dynamics of change project will attend to the issue of frequencies in a fashion from which I can generalise in a statistically controlled way.

Sixth, I observed that institutional templates affect the way law firms organise. Within these firms influential coalitions embark upon persuasive management when they attempt to change the way firms organise, for they face electorates that have institutionalised views on normalcy. This research opportunity could also be attended within the dynamics of change project. It is likely that ethnographic and case data will provide insight into the dialectic between beliefs institutionalised by the industry template and strategic change warranted by the influential coalition. One can envisage this coalescing with a long term study of comparative professional constraints.

Seventh, the comparisons should be extended internationally. There is a developed database on several of these matters at the University of Alberta. Several other active researchers are known in the field. The opportunity therefore exists to construct an international comparative project. Realistically this will closely collaborate with the Canadian researchers due to their economies of size and history of involvement. I
envisage that the dynamics of change project will establish the ground for future comparative work.

These seven points conflate the research opportunities that I note in these conclusions. The projects can be complementary and later I will display a research agenda; but before then I shall set out additional research projects that emanated from theoretical claims. During the early chapters of the thesis I made certain theoretical claims. I have attended to most of those in the conclusions in this chapter but a few remain, to which I now attend. In the following paragraphs I will recall some of those claims and analyse whether the data support them, do not support them or are inconclusive.

I claimed that globalisation should hasten the spread of organisational innovations. The data point to the interpretive process that firms undertake of global practices. Global issues were analysed only by the largest firms. Most of the selection was disinterested. Nevertheless, globalisation is an issue that could be fruitfully studied in the professional firms' field. It is likely that the choice of professional service firms by global firms is significant in the globalisation process and one could fruitfully inquire as to the linkages between professional service providers and global firms, the network that this forms and the relative capacity of professions to compete in this. Thus the study could relate to the dynamics of change project and the comparative professional constraints study.

I have gained agreement with E3 to commence such a study, which will be a medium term project. Its first year will focus upon E3's global clients and attend to the decisions that these firms take when they employ professional service providers. Its second, third and fourth years will involve the NSW Law Foundation and the Australian Research Council. A doctoral student and a postdoctoral fellow will investigate these decisions and the network of influence that global firms employ.

I argued in Chapter Two that market efficiency will dominate institutional considerations in organising modes observed. The cases reveal that market efficiency was influential but not dominant. Rather it was one part of contextual analysis that was balanced against institutionalised ways. Examples in which firms tended to deny
economic circumstances because of values or power considerations include A2 and C1 which would not change despite economic downturn, D2 and D3 which were delaying change. The institutional literature suggests that issues of legitimacy will often override issues of efficiency. This leads authors such as Donaldson (1995) to suggest that institutionalism promotes irrational ways. For example, Donaldson (1996) argues that structural contingency theory is the normal science of organisational analysis and deviations from it have reduced the predictive capacity of the science. Further, that one can specify limited variables from which taxonomies can be devised. The underlying assumption is that managers of firms see economic efficiency which is truly rational. My data clearly show that such a view is far too reductionist. Partners in law firms balance considerations of legitimacy and efficiency. They interpret these issues within the complex of contextual constraints, provinces of meaning and dependencies of power. I have cited data in which the rationality adopted by partners relates their interests and capacity to these issues. This sub-question “Does efficiency dominate legitimacy in choice of organising modes?” can be attended to during the dynamics of change project.

In Chapter Two I argued that ownership, governance and the nature of the primary task make professional firms different than others in five main features. First, institutional practices affect strategy. Second, partners' mixed roles of owner and operative affect organising practices. Third, managerial appointments of partners will be temporary. Fourth, the work is not subject to bureaucratic control. Fifth, knowledge workers approach tasks wholistically. The data mainly confirm this. First, the conservative ways of the profession impact on the strategies adopted. Several firms were noted which adopted innovative practices that made them strategically more responsive than the profession as a whole but these were a minority and as I have observed these practices have not diffused. Second, the mixed roles of partners made innovative practices unlikely unless special attention to organising was made, as in A1, B1, C2, C3, D1, E1, E2, E3. Third, in seven of the cases managerial appointments of partners were long term. In four of these the Managing Partner practised little or no law. Fourth, in all but one case professional work was not subject to bureaucratic control. C3 had one stream of professional work that it had bureaucratised and was increasing managerial control of all work. Fifth, again with
the exception of one stream of C3, knowledge workers in the selection approached their professional work wholistically.

I observed that social ways are created and continued due to 'going on'. The data reveal that organisational practices were the outcome of dependencies of power continuing conservative practices, as with C1, or innovating within the limits set by values and context. This can be highlighted with the example of C3 whose coalition carefully judges the pace with which it can progress its strategy. This firm suggests a study that could investigate the institutionalisation of practices within a firm. If additional ethnographies were compiled over the medium term whilst an ethnography of C3 were also compiled one could comparatively note the institutionalisation process. If this were extended long term into longitudinal surveys of the legal industry then one could also observe transmission of institutionalised practices. Clearly these opportunities may be realised within the dynamics of change project.

In juxtaposition to this I recollect arguing that prolonged fixity of social patterns of influence may be noted in law firms. Whilst much argument surrounds the transmission of new practices within institutional fields, conservation of old ways is the norm. The data confirm that practices are quite fixed in most of the cases and the innovations that occur in some firms are not diffused widely. The prolonged fixity of organising practices is a counter question within the diffusion project.

Time scale affects the organising mode that one observes. Because of the complex inter-permeation of the elements in organising mode, the time at which one makes one's observation, is critical. For example, firms D1 and D2 appear to be delayed in a journey towards an organising mode near MPB. If one were to analyse them longitudinally then a pattern might appear that single observations would not reveal. The studies that I have set out above are all medium term. As such they establish a research agenda for the future.
<table>
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<th>Research opportunity</th>
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<tr>
<td>How do firms in different professional industries compare?</td>
<td>Professions' comparative constraints Project</td>
<td>Medium term three years.</td>
<td>Reflexive archetype theory; institutional theory</td>
<td>Relates to study of changes in the definition of the professional field currently being undertaken by Hinings and Greenwood in Canada. Industry funding agreed. Research Council funding proposal submitted.</td>
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<td>How are innovative organising practices diffused in the industry?</td>
<td>Dynamics of change: diffusion project</td>
<td>Medium term one year</td>
<td>Reflexive archetype theory, change theory, innovation theory, institutional theory</td>
<td>This is a component of the five year dynamics of change project. Results could be expected in one year. Industry partner agreed. Funding sought.</td>
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<tr>
<td>How do organising practices become infused with value?</td>
<td>Dynamics of change: institutionalisation</td>
<td>Medium term, four years</td>
<td>Reflexive archetype theory, change theory, institutional theory</td>
<td>Emphasis on ethnography and deep cases. Industry funding agreed and proposal for governmental funding submitted.</td>
</tr>
<tr>
<td>How do organising practices become transmitted in the industry?</td>
<td>Dynamics of change: transmission</td>
<td>Medium term, four years</td>
<td>Reflexive archetype theory, change theory, institutional theory</td>
<td>Emphasis on quantitative longitudinal surveys. This project will subsume the typologies and frequencies of organising modes. Thus forming the basis for international comparative study.</td>
</tr>
<tr>
<td>How do strategic decisions of global firms affect professional service firms?</td>
<td>Globalisation project</td>
<td>Medium term, five years</td>
<td>Reflexive archetype theory, change theory, institutional theory</td>
<td>The study will be staged so that tentative conclusions will be available at year one, two and three. Industry partner secured with short term funding. Plans agreed for industry and governmental support medium term.</td>
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My thesis has uncovered twelve major opportunities for further research. I have been able to conceptualise these so that they can be telescoped into six projects. I envisage that these could be staged complementarily so that knowledge accumulated and a team of researchers was recruited to the study of professional firms. The diagram below sets out a time line for these studies. It recognises that some studies have been agreed and partially funded whilst others are in earlier stages of planning.
CONTRIBUTION OF THIS THESIS TO ORGANISATIONAL ANALYSIS

In Chapter Two I reiterated the meta-narratives of organisational analysis as identified by Michael Reed (1996). At that time I claimed that the theoretical approach of this thesis fitted within the meta-narratives of power, knowledge and justice. Importantly its theory straddles the divides between agency and structure; micro-politics and "broadly based organisational mechanisms"; and micro evidence and macro evidence. Now I will reflect on the data that have been collected, including the interpretations made, and judge how well my thesis has met those claims.

The thesis has dealt confidently with the duality of agency and structure. The fundamentally reflexive nature of the theory enabled the researcher to assemble data into organising modes and note major incidences whereby agency structured and structure took on the nature of agent. Two incidences can illustrate this. I have explained the actions of the managerial coalition at C3. This group has used its agency to install managerial systems for performance appraisal, business plan development, partner admission into the firm and ensured that one of its number
controls each of the essential nodal points in these systems. Thus, any new business stream proposal must be approved by the Executive Committee before funds can be allocated to it. Moreover, a proposal must be in the form of a business plan that attends to the broader strategy of the firm. That is to say it must progress or extend the agreed strategy that is controlled by the managerial coalition comprising the Executive Committee. C3 is at a stage of institutionalising these ways. I do not wish to suggest that control is uncontested but one can see how their agency is structuring affairs within the social and system integration circuits of the firm so that eventually it will be the accepted way that the firm operates. At that stage, and it may be very close to attainment, structure facilitates and disposes.

I could cite similar circumstances at B1. The partners of that firm consciously avoid managerial systems but they have institutionalised ways of deciding matters by tacit agreement. The name partners must agree with any substantive proposal. In terms of agency the firm is quite pluralist on the face of it. Any partner can "sign off" on major matters, like new business streams, capital purchases, staff deployment. But they don't. Informally, the name partners will be consulted. The myth of the firm is its collegiality. The realpolitik of the firm is that all realise that the name partners prefer to exercise their agency within a structure that emphasises collegiality. Having said that I must emphasise that the partners are very pleased with the arrangements. They have freedom, wealth and challenge that they did not experience in their previous firms. Until an analyst reminds them, they are not discursively conscious that the name partners' agency has structured the firm and that this structure now channels their affairs.

Of course to achieve these insights it has been necessary not only to attend to micro politics but to bear in mind also broader organisational mechanisms, thus straddling the divide between micro and macro evidence. My data were accumulated within the elements of power, values and context but, as I observed throughout the thesis, these inter-permeated each other. Elements leached into each other and, as context is both external and internal, into their society. The legal industry faces economic and normative challenges. Firms within the industry interpret context consistent with their dominant values and power groupings. Partners are constrained in their actions by these elements as organising mode. That is not to say that organising modes
cannot or do not change. My data reveal that they do. It is to say that in seeking to understand why law firms organise as they do I have blended the micro and the macro, the structure and the agency, the organising and the organisation. I have demonstrated that those within law firms habituate micro-routines that, through recursiveness, form macro-routines. My data have confirmed the claims concerning meta-narratives that I made in Chapter Two. Indeed it has been the rigour of the theoretical approach that has enabled the richness of the data to be properly appreciated.

I also paraphrased Reed and suggested that theoretically our field is trapped between a return to previous orthodoxy and paradigm proliferation. I argued then that a third way was sought and suggested that my integrationist approach, emphasising the reflexivity of elements comprising organising modes, provided it. Again the data confirm the validity of my construct. Only through the use of a theoretical framework that is neither reductionist nor determinist can an analyst appreciate the inter-permeation of important elements in law firms undergoing change.

I argued that my theory was realist, neither conservative nor relativist. I have not set out to find limited sets of variables, which in formula produce predictive capacity, nor have I set out to argue that organising is so complex that we cannot make sense of it. I am interested in my work being practically useful to practitioners and analytically intriguing for academicians. The data were compared to ideal types within the historical context of the firm and the industry. Importantly an integrated approach was taken by which phenomena reported by actors were checked against other reports as well as historical data. The data confirm that this realist, integrative approach contributes to understanding of law firms. Understanding law firms will aid us understand knowledge based organisations.

If Weber's work on organisations (1948) was to construct an iron cage, then most subsequent organisational analysts made this cage from industrial bars. There have been influential voices that have prised apart these Weberian bars. Clegg (1990:33) for example, reminds us that "The iron cage is not only a prison but also a principle. As a principle it 'makes us free' to be modern". He then proceeds to show that Weber's fateful fear, that the world would be inevitably bureaucratised was
unnecessarily pessimistic. Clegg (1990) ably demonstrates that institutional circumstances insist that there is no inevitable convergence in organising practices. He prises the bars with examples from international industry. Researchers who inquire into professional firms also file away at these industrial iron bars (for example Greenwood and Hinings 1993, Morris 1992, Flood 1995) with, their emphasis that professional firms provide a richer field for study than the more popularly studied industrial field.

My thesis adds its weight to both types of researchers, those who see the iron cage as too prescriptive and those who see industrial focus as too limited. Both theory and data have shown the essential reflexivity of matters. Those in law firms interpret matters. They do so in instrumentally rational, value rational or legally rational fashions (Weber 1948). As lawyers organise they balance values, context and power and choose modes that are possible. Law firms demonstrate the complexity of organising in firms that are knowledge based. This is particularly significant as economies move into service domination for service firms cannot be easily controlled by industrial supervision techniques. Being modern means interpreting the dialectic of market and professionalism.

In conclusion, the thesis has demonstrated that typologies can be constructed that attend to organising modes during time/space instantiation (Giddens 1984). It has developed a method that is robust, builds theory and can be extended in future projects. It has set out a research agenda that attends to dynamics of change, institutionalisation of organising and the transmission of institutionalised ways. It has provided integrated answers to the question, "Why are law firms organised as they are?"
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APPENDIX A

UWS Logo and research team contacts
Mail Merge for Firms
Address to Managing Partner or Designate

Dear Appellation

The University of Western Sydney has formed a research team which comprises, Mr John Gray, an academic from the Faculty of Business, Professor Rob Woellner, Dean of Law and Adjunct Associate Professor Philip King, to investigate the processes of change in the management of legal firms in NSW. The research has the endorsement of the NSW Law Society.

The researchers seek to discover how firms have adapted management practices over the last two years. To do this they will visit fifteen firms in Sydney and collect data by interview, observation and document analysis. The data will be collected efficiently and confidentially and the research results will be published in academic and professional journals in such a way that individuals’ and firms’ confidentiality are respected and identity concealed. Additionally the data will be fed back to interviewees and firms (with the same provisos) prior to publishing. These data and the researchers’ observations will provide legal practitioners with valuable insights into current approaches to management change adopted by the profession. For the researchers these data will provide a basis for future longitudinal research and international comparisons.

I write to you to ask that you involve your firm with this research by agreeing to have some of the team visit your office in the near future. The approach is to gather preliminary information by means of a survey prior to the visit. After analysing these the team will visit your firm at a mutually agreeable time and interview the Managing Partner, another partner, a senior associate and an administration manager. The interviews will take about an hour each. From the viewpoint of your firm you would no doubt prefer all these interviews to take place on one day to minimise any disruption.

I shall phone you in a day or so to discuss this matter with you.

Yours sincerely,

John Gray
Principal Researcher
The Law Society of New South Wales
A.C.N. 000 000 479

NDL-MSD:R.1

17 June 1996

Mr F. J. King
Faculties of Law
University of Western Sydney, Macarthur
PO Box 2560
Camden, NSW

Dear Philip

Re: Legal Profession Research Project

Thank you for your letter dated 5 June providing us with details of the University's legal profession research project which I brought the project to the attention of the Council at its meeting on 13 June.

The Council believes that this research will prove useful to the work of the Society and of benefit to the legal profession generally. We are therefore pleased to give our endorsement to the project and to encourage the co-operation of all firms in the planned interviews.

We look forward to publication of the research results in due course.

Yours sincerely

[Norman Lyall]
President

Solicitors
Helping you is their practice
RESEARCH PROJECT SURVEY

Name of Firm: 
Address: 
Tel & Fax: 

Numbers of: [  ] Partners, [  ] Legal Staff, [  ] Admin Staff

Branches: 
Alliances: 

Principal Areas of Work: 

Date of Establishment: 

Type of Governance: 

Senior Partner/Elected MP/elected Board Committee/All Partners Involved

Frequency of Partners Meetings: 

Monthly/Quarterly/Annual

Is your CEO: 

Managing Partner/Non Lawyer Manager/Senior Partner Chairman/Other

Degree of Management Expertise of your CEO: 

No Previous Experience/Developed from legal experience/Special Training/Professional Manager

Which of following do you formally have in place:

• Mission Statement/Strategic Plan/Business Plan/Monthly Management Accounts/Quarterly Management Accounts/Annual Management Accounts

• Cash flow updated monthly/Work-in-Progress Report – Daily-Weekly

• Individual Practice Reports

• Staff Assessments/Partner
Do you have any of following technology:

Financial reporting and recording on-line/E-mail/voice mail/precedents on-line/other:

What is your IT system:

Mainframe/Linked PC/Independent PC/Other

Do you have any of the following staff?

Librarian/IT Manager/Precedents Officer/Marketing Manager/HR-Personnel Manager/other specialist staff:

What benefits does the firm provide staff?

Sport/Social/Training/Magazine/Insurance against Death/Incapacity/Other benefits

What Marketing does the firm conduct?

Partners Contracts/Client Functions/Newsletter/Client Care/Quality Management/Other

What quality management systems do you have?

None/Manuals/ISO/QIL/Other

Has your firm had in last two years:

Merger discussions/Merger/Branch office establishment/establishment of new division/closure of division-branch office/growth in total number Partners [No. ___]/Addition of new Partners [No. ___]/Retirement of partners [No. ___]/Growth of Staff Lawyers [No. ___]/Reduction of Staff Lawyers [No. ___]

How do you view the future of your firm?

Buoyant/Steady Growth of Income per Partner/Static Income in real terms per Partner/Reduction of Income Per Partner/Other

What are the reasons for this view?

What arrangements does your firm have with:

Interstate firms:
International firms:
Other professional firms (eg. Accounting)/Patent Attorneys/TAX /Advisors/Other:
What firm of your size (other than your firm) do you think is:

Most innovative firm:
Best managed firm:
Producer of best quality work:
Most profitable firm:
Firm with best staff relations:

What is your firm’s –

Single greatest challenge:
Single greatest opportunity:

What, in your view, is the profession’s:

Single greatest challenge:
Single greatest opportunity:
Change and the management of legal firms

Interview Protocol

Firm: Interviewee: Date:
Interviewers:

Introduction
Thanks for agreeing to this interview. I am investigating change in legal services in NSW as part of a research project at UWS on the management practices of the legal firm. I hope to/will be interviewing other people in this firm as well as looking at documents and other aspects of the firm. This is the Yth firm I have visited and I will visit a total of 15 firms. My report will be published in such a way as to maintain confidentiality of respondents and I will produce a feedback report to the members of each firm at which I interview so that data can be confirmed.

I expect that the interview will take less than an hour. It is an important matter for lawyers and their customers, and has the support of the NSW Law Society ... so thanks again for participating.

Culture and change
1. I would like to start by checking/completing the information on our pre-interview form. I have found that to be useful. (Check pre-interview form if received or use it as a questioning device if not received. Probe on final questions concerning challenges and opportunities.)

2. I want to ask you some questions about your impression about the firm. Could you please read this survey and mark the response you think appropriate. (Hand over values form. After completion check if the interviewee wishes to discuss any matter upon it.)
Some questions about your impressions about your firm follow. Please tick the response you think is most appropriate.

1. Compared to other law firms I know of about the same size as my firm I would rate this firm as:

   Less   About the same   More

2.1 Ethic of working long hours.

2.2 Pressure to find new clients

2.3 Pressure to bill (existing clients)

2.4 Ethic of quality work

2.5 Innovation

2.6 New Systems

2.7 Low Costs

2.8 Focussed Marketing

3. How would you describe the firm’s culture? Are there examples of this to which you can point?  
   (Probe on mission and whether it is explicit, how it was determined, any rituals, use of language, status of customer, office layout, dress. Check on level of empowerment of non-partners.)

4. You mention ............... (use a theme they mentioned such as quality or customer focus). What processes are used to reinforce this theme? (Probe for artefacts to support the theme, look for mismatches).

5. I think about innovation as introducing something new to a market. Has your firm introduced new products, services or processes to your customers in the last two years? (List these and attempt to categorise them by product, service or process. Try to separate the innovation of process in the firm that enables innovation with the delivered innovation. For example improved technology gives better access to case law. This may be delivered in an on line advisory service that assists customers with strategy, may indeed be customised to the customer’s needs as known by the lawyer).
6. Would you say the firm is in a process of change or static with respect to its structure, systems and values? What was it like before? How did it change?

**Structure**

1. Can you tell us some more about how the firm is structured? *(Are there documents that set out these arrangements? From whom can I get these? Probe for partnership extent, any network arrangements with “internal” trading entities such as clerical companies, any network arrangements with external trading entities, type of partnership and company structure. How are the functions of the firm coordinated? Probe for structure of coordination rather than personalities.)*

2. How would you describe the system of governance in the firm? *(Probe for role of partners, power of CEO, power of technical functionaries, power of professional functionaries.)*

3. You have told me about some of the major issues that have caused change and will cause change in the legal services; how have these, and will these affect the structure of the firm? *(Probe for environmental issues such as improved access, increased competition, deregulation, economic cycle, professional mores.)*

**Systems**

1. What systems are in place or planned to establish strategy for the firm? How does this relate to the firm’s approach to change in the legal industry? *(Probe for boundary spanning roles, monitoring the environment methods, focus/differentiation/cost leadership emphasis; if a partner or associate is accountable for any of these. Probe for the interviewee’s views but check whether I should follow up with this other person.)*

2. Could you please tell us about the systems that your firm has in place for planning, marketing, people, budgeting, quality assurance, technology management. How are these useful in managing change? *(Probe for integration of the systems. If a partner or associate is accountable for one of these issues probe for the interviewee’s views on this. If necessary follow up with others. It may be necessary to prompt on recruitment, training, appraisal, remuneration, profit sharing, partner admission.)*

3. How do you measure partner performance? What about associates, employed lawyers, clerical staff, students?

4. Liability seems an issue of international significance for lawyers; what systems does your firm have to deal with the issue of liability?

Finally I would like to speak to other members of your firm and receive documents that explain about the firm’s structure, systems and values; how could I organise that please?

Thank you for your time and interest.
Comparison of Firms' Marketing Focus
Comparison of Firms' Leadership

A1  A2  A3  B1  B2  B3  C1  C2  C3  D1  D2  D3  E1  E2  E3
Comparison of firms' MPB/P2 Orientation

E3
E2
E1
D3
D2
D1
C3
C2
C1
B3
B2
B1
A3
A2
A1
Comparison of Firms' Systems/People Orientation

E3
E2
E1
D3
D2
D1
C3
C2
C1
B3
B2
B1
A3
A2
A1

0 2 4 6 8 10
Comparison of Firms' Attitude to Change

E3
E2
E1
D3
D2
D1
C3
C2
C1
B3
B2
B1
A3
A2
A1
Comparison of Firms' Strategic Planning

E3  E2  E1  D3  D2  D1  C3  C2  C1  B3  B2  B1  A3  A2  A1

0  2  4  6  8  10
Firm B1 and all Elements

- Attitude to Change
- Innovation
- Systems/People Orientation
- MPB/P2 Orientation
- Financial Return Orientation
- Specialisation
- Leadership
- Strategic Planning
- Quality Management
- Marketing Focus

0 1 2 3 4 5 6 7 8 9 10
Firm B2 and all Elements

- Attitude to Change
- Innovation
- Systems/People Orientation
- MPB/P2 Orientation
- Financial Return Orientation
- Specialisation
- Leadership
- Strategic Planning
- Quality Management
- Marketing Focus
Firm C3 and all Elements

- Attitude to Change
- Innovation
- Systems/People Orientation
- MPB/P2 Orientation
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- Specialisation
- Leadership
- Strategic Planning
- Quality Management
- Marketing Focus

0 1 2 3 4 5 6 7 8 9 10
Firm D1 and all Elements

- Attitude to Change
- Innovation
- Systems/People Orientation
- MPB/P2 Orientation
- Financial Return Orientation
- Specialisation
- Leadership
- Strategic Planning
- Quality Management
- Marketing Focus

0 1 2 3 4 5 6 7 8 9 10
Firm D3 and all Elements

- Attitude to Change
- Innovation
- Systems/People Orientation
- MPB/P2 Orientation
- Financial Return Orientation
- Specialisation
- Leadership
- Strategic Planning
- Quality Management
- Marketing Focus

0 1 2 3 4 5 6 7 8 9 10
Firm E1 and all Elements

- Attitude to Change
- Innovation
- Systems/People Orientation
- MPB/P2 Orientation
- Financial Return Orientation
- Specialisation
- Leadership
- Strategic Planning
- Quality Management
- Marketing Focus

0 1 2 3 4 5 6 7 8 9 10
Firm E2 and all Elements

- Attitude to Change
- Innovation
- Systems/People Orientation
- MPB/P2 Orientation
- Financial Return Orientation
- Specialisation
- Leadership
- Strategic Planning
- Quality Management
- Marketing Focus
Firms of singular size
and all Elements
Firms with 2 to 5 partners and all Elements

[Bar chart showing various elements such as Marketing Focus, Quality Management, Strategic Planning, Leadership, Specialisation, Financial Return Orientation, MRP/IP2 Orientation, Systems/People Orientation, Innovation, Attitude to Change, etc., with bars indicating percentages or scores for each element.]
Firms with 6 to 15 partners and all Elements
Firms with 16 to 49 Partners
and all Elements
Firms with 50 or more partners and all Elements
Organising Modes of Law Firms

By

John T. Gray

Submitted in fulfillment of the requirements for the degree of Doctor of Philosophy, University of Western Sydney, Macarthur. October 1998.

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PLEASE NOTE

The greatest amount of care has been taken while scanning this thesis,

and the best possible result has been obtained.
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DECLARATION

I hereby declare that this thesis is my own work and that, to the best of my knowledge and belief, it contains no material previously published or written by another person nor material to which to a substantial extent has been accepted for the award of any other degree or diploma of a university or other institute of higher learning, except where due acknowledgement is made in the text of the thesis.

Signed:  

Date:  

ACKNOWLEDGEMENTS

It was Professor Stewart Clegg who first interested me in this topic when he showed me a review copy of an article for *Organisation Studies*. This simple gesture introduced me to the work of Professors Bob Hinings, Royston Greenwood and their colleagues at the Centre for Professional Firm Management. I was astounded and excited by the body of work I found.

Subsequently Professor Hinings was eminent visiting scholar at my University on two occasions. I was then able to learn from him, discuss my ideas and gain a colleague for whom I have matchless respect.

I was fortunate to have Professor Stewart Clegg and Doctor Gregory Teal as my supervisors throughout my candidacy. For the first years Stewart Clegg was my supervisor and Gregory Teal my associate supervisor. Those roles reversed in the last year and a half when Stewart Clegg left the University of Western Sydney and joined the University of Technology, Sydney. Stewart Clegg’s theoretical power and prodigious skills are rightly renowned. He continually guided, goaded and encouraged me. Gregory Teal worked energetically with me during a period when his health was poor and commitments heavy. He was always able to find ways between and around impasses. If there is a ‘t’ uncrossed in my work then I must have put it there after Gregory Teal read it.

Professor Jane Marceau, the Pro Vice Chancellor for Research at the University of Western Sydney expressed real interest in my research and was instrumental in gaining me time for research, writing and analysis. I acknowledge the support given me by the University of Western Sydney, not only in a formal program sense but also in the informal sense of collegial support.

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Despite all these acknowledgements there is only one person who is responsible for this thesis, me.
ABSTRACT

This thesis examines why law firms are organised as they are. It develops a theoretical framework of reflexive archetype theory which is constructed from structuring theory (Ranson, Hinings and Greenwood 1980), archetype theory (Hinings and Greenwood 1988), and circuits of power theory (Clegg 1989).

It emphasises the reflexivity and integration of the process of organising within law firms. Empirical data are collected from fifteen Sydney law firms and interpreted within reflexive archetype theory. These data confirm the reflexivity and integration of elements within law firms that are theoretically postulated.

A research agenda is developed and the contributions of the thesis to the field of organisational analysis are enumerated.
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GLOSSARY OF TERMS

Throughout the thesis I have used terms that are familiar to those in the law industry. This brief glossary provides definitions of these terms, some of which may be unfamiliar to readers, or used in a specific way.

*Big hitter* is a major lawyer who brings considerable business to a firm. He or she may gain that status through being a *rainmaker* or a *black letter lawyer*. This term is synonymous with *super star*.

*Big nine* refers to the largest mega firms in Australia.

*Black letter lawyer* refers to a lawyer who is excellent in understanding the law and will always attempt to give textbook correct answers to legal problems.

*Chairman* refers to the partner who chairs the Board of Partners. This person may be elected, inherit or retain the position by lineage to the founder of the firm or seniority.

*Commercial* refers to commercial matters done for small or medium enterprises.

*Contract partners* refers to a partner whose status is titularly *parus inter pares* but who has no share of the ownership of the business. In some circles these partners are known as *salary partners*.

*Corporate commercial* refers to commercial matters that lawyers transact for typically large corporations.

*Corporate counsels* refers to lawyers employed inside corporations to oversee legal service providers and acquit simple legal matters.
Cost leadership to lawyers means high pricing whereas in the management literature this term refers to efficiency producing high profit margins. In all instances I use the term in the managerial sense.

Differential profit share partnership refers to a scheme whereby some weighting system is applied, typically based on partner's contribution to revenue to determine a partner's share of a given profit.

Equal Partnership refers to a partnership in which profits are shared equally. It is, confusingly, applied by some lawyers to mean profit is shared without reference to the contribution to revenue made by each partner. By this definition it may be applied to a lockstep progression partnership in which equity is uneven.

Equity partner refers to a partner who has a share in the ownership of the business.

Gearing refers to the ratio of lawyers to other fee earning staff.

Grossed up rates typically refers to a mean average of a project of lawyers. For example a firm might charge different rates for partners, senior associates, juniors and in instances where a project team was formed a grossed up rate might be negotiated.

Leverage refers to the ratio of lawyers to other fee earning staff. Gearing is synonymous with leverage.

Lockstep progression refers to a scheme of partnership in which partners enter partnership at some level beneath equal partnership, normally expressed as a percentage, say 40%, and progress by increments to equality.
Managing Partner typically is the Chief Executive Officer of the firm. In all instances the Managing Partner will be a lawyer who gains the position in the same manner as a Chairman might. The Managing Partner typically has a strategic role in the firm.

Mega firm refers to a firm with more than fifty partners. Lawyers talk about firms in terms of the number of partners they have regardless of leverage rates.

Premier league refers to the largest five firms in the UK.

Pro publico bono refers to legal work done on behalf of the community for reduced or no fees.

Rainmaker refers to a lawyer who brings a lot of business to the firm. A chief rainmaker brings the most.

Rates refer to the price that a firm charges for its services.

Salaried partner refers to a partner whose status is titularly parus inter pares but who has no share of the ownership of the business. In some circles these partners are known as contract partners.

Senior partner refers to the longest serving partner in the firm.

Top end refers to a high echelon in a market. It will be determined typically on the prestige of legal matters that it provides. Thus, although Compulsory Third Party insurance can be more lucrative than corporate insurance it is the latter that lawyers call top end. It is most frequently used when referring to the type of clients a lawyer may have. If these are predominantly from the top hundred corporations then that would be a top end practice.