Chapter 6

The cultures of globalization

Professional Restructuring for the International Market

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> We don't do incentivized
> quantitative global matrix
> models of zero-defect
> just-in-time delivery for
> potential capital reallocation
> scenarios in the next
> decade horizon.
> (Advertisement for PHH Fantus, Management Consultants)

INTRODUCTION

According to Immanuel Wallerstein (1991) the disintigration of *Pax Americana* has had profound effects throughout the world. America's political and economic institutions are unwinding and Germany and Japan are mobilizing to become the world's hegemons, its 'lenders of last resort'. And according to some economists the world economy is in the depths of a Kondratiev Long Wave which will not reach its next peak until well into the twenty-first century. Similarly, the nation-state is in a state of crisis as countries are torn apart and reformed (Mann 1990). Yet we are supposed to inhabit an economy and society that is increasingly globalized, one in which time zones are now temporary hiccoughs in the quotidian conduct of our affairs. For some, globalization is read to mean Americanization of culture – the 'Coca-Cola world' – but is it so? Our world then is facing, on the one hand, forces impelling it towards globalization and, on the other, forces of fragmentation. The role, and rule, of law and its providers becomes ever more crucial in adapting societies to these changes (or preventing them). Reflexively, both law and law professionals have themselves to adapt to rapid and extensive change.

In some cases professionals have attempted to close ranks and insulate themselves; for example, the law closing the legal profession to foreigners that was enacted in France in 1990. Others have tried to create institutions that transcend conservative demands for closures: for example, the

thirteen law firms from four continents that have banded together to open a co-operative law consultancy office in the People's Republic of China, to take advantage of the anticipated profits that will emerge when Hong Kong reverts to China in 1997 (*International Financial Law Review*, 1988: 3.)[1] The venture Interjura is composed of international law firms – joint shareholders – from the US, England, France, Spain, Italy, Germany, Holland, Sweden, Australia and Hong Kong.[2] The office is staffed by a Taiwanese-born, American-trained lawyer. Interjura provides the firms and their clients with information concerning technology transfers, joint ventures and large-scale project financings. One benefit claimed of the venture is that the shareholders will get acquainted with each other in closer ways than before. Now Interjura is searching for new locations to establish offices.

My purpose in this chapter is to explore and I hope explain through the medium of cultural analysis some of the changes that are taking place. I will argue that change is ineluctable and its effects irreversible – that with the political economy of the nation-state giving way to that of the super-region (the European Community (EC), the North American Free Trade Area (US, Canada, Mexico) and the Pacific Rim), any profession that serves corporate finance and commerce will be in danger of withering unless it can at least attempt to transcend national boundaries. But this is not to say that the organizational and institutional forms that now exist can be reproduced on a grander global scale. The recurring theme in the literature of globalization and change and in interviews I have conducted is that change is dependent on correctly interpreting and adapting to diverse cultures. In using this term I refer to the cultures of nations and periods and the specific cultures of social and economic groups. As might be expected, a term like 'culture' is a highly contested one (cf. Smith 1989a; Hebdige 1979; Williams 1976; Geertz 1973). The push of globalization has been checked by the mediation of culture, which is forcing mutations in organizational forms and modes of doing business that, for the most part, professions were unprepared for.

There is a competition between the sacred and profane aspects of professions – as institutions conserving the common weal or as goal-orientated, profit-seeking fields of endeavour in fierce competition with other occupations over contested terrains of work (Carr-Saunders 1933; Parsons 1954; Abbott 1988; Flood 1989a; Eburne 1991; Perks 1992). The terms 'business' and 'industry' are increasingly invoked as descriptors for the law and accounting professions (Zeff 1988). If we were to think of the main output of the legal profession as being litigation, then that has certainly increased; but that would only explain part of the growth in lawyers and legal business (cf. Pashigian 1977; Galanter 1983a; Sander and Williams 1989). But litigation is a relatively small part of most large law firms' work. Similarly, if we were to think of auditing as the main product of the

accounting profession, then that too has increased. But growth in accounting has also been due to many other varieties of business activity such as management consultancy and designing golf courses (Perks 1992: 5). The growth in international economic transactions has made the law business more central to the facilitating of business activity. For example, American lawyers are developing new fields such as international environmental work (Barker 1991: 91) and international real estate transactions (Clarke 1991: 101). In an article on environmental law practice, a partner at Sidley and Austin was portrayed thus:

> In his latest move McMahon has set his sights on marketing Sidley's environmental expertise worldwide. In the field of environmental regulation, he says, the United States has a significant jump on the rest of the world. Agrees partner Lucero: 'This is an area where the Americans have the advantage. We've been working on this for twenty years, working through problems, knowing the laws.' 'No one's talking about setting up offices in Western Europe and competing with local lawyers,' says partner Stever. But McMahon sees a niche in advising US clients about how environmental laws abroad will *probably* develop. 'Sometimes we find our US multinational clients wanting us to work with them and massage the opinions being received from local firms,' McMahon says.
>
> (Barker 1991: 91)

As a result of such developments professions are beginning to resemble those they serve in so far as they are moving away from the collegial model of organizations to the bureaucratic (Johnson 1972; Nelson 1988). But there is a cost to this. As long as the sacred rhetoric of professionalism held sway, occupations regarded as professions were granted the privilege of self-governance and autonomy. The changes taking place will probably result in restrictions on professions' rights to self-regulation and ultimately promote either a *laissez-faire* climate or one of external state or super-region driven regulation, as, for example, in the oversight of lawyers by the US Securities and Exchange Commission; the demands placed on tax attorneys and accountants to act as *ex officio* agents for the US Internal Revenue Service; the oversight of law firms by the UK Securities and Investments Board; and the adoption of the Common Code of Conduct by the *Conseil des Barreaux de la Communauté Européenne* through Europe (CCBE). This is not necessarily a great loss: in exchange for external regulation, professions will be able to adopt organizational forms more suited to the exploitation of international markets. Professional firms will incorporate, have limited liability and outside shareholders, and form multidisciplinary and multinational conglomerations. They can become true entrepreneurs bidding for business on a transactional basis through 'beauty parades' rather than maintaining work through sustained relational

contacts. None of this is fantasy. It already exists – the exemplars are the Big Six accounting firms (*Economist* 1989).

In the next section I describe the process of globalization and how culture operates as a brake. And in the following section I analyse the responses of the legal and financial professions to these factors.

GLOBALIZATION AND CULTURE

Business and commerce are no longer captive to the time zones and politics of their home states. Transnational or multinational corporations (MNCs) – e.g. Ford, IBM, Burroughs-Wellcome – have successfully exploited the decline of empires and post-war booms producing supplies of cheap labour and materials and new markets for their products (Piccioto 1988; Sassen 1991). As a consequence of this success, MNCs amassed substantial earnings overseas and had to construct methods to use the money without repatriating it. One mechanism for resolving the problem was the eurodollar market, based primarily in London. British banks and law firms became proficient in servicing this market. By the late 1980s the eurodollar market was worth $2,500 billion (McCullough 1988). The eurobond and other eurocurrency markets followed. Since 80 per cent of the eurodollar market was in dollars, there was a strong incentive for American law firms to become involved (Lewis and David 1987). (For example, Cleary Gottlieb Steen & Hamilton has a strong footing in this business.) The Big Six accounting firms were also significantly involved in eurocurrency.

With more business being conducted overseas, the financial markets became more attuned to the global market. Technology has given investors and banks the opportunities to play in multiple markets. The New York and London stock markets overlap in time zones and the Hong Kong and Tokyo markets are only a few hours away from the openings and closings of New York and London. With little effort it is possible to play a twenty-four-hour market – an insomniac's dream. The machination of the American, Japanese and European foreign exchange markets that resulted in the British pound being suspended from the European Monetary System on 'Black Wednesday' of September 1992 is a dramatic illustration of how the markets never sleep.

The internationalization of markets is a function not only of capital's desire to maximize profits and extend its reach, but also of the political movements of the past decade or so. In the US, the Carter administration initiated the stream of deregulation and the Reagan administration nourished it; the Thatcher government in Britain gave the movement its philosophical respectability (Crook 1992b: 14). Thatcher's rolling back of the state (cf. Walker 1989) – in welfare policies and through privatizations – has given legitimacy to the new regime of international mercantile capitalism (Johnson 1991). The expansion of the secondary market was brought to

its present heights with the 1986 'Big Bang' in London (McCullough 1988). The drive to Big Bang was fuelled in part by the release of currency exchange rates from direct state control in 1979 (Smith 1989b). This release prompted the development of futures and options markets in financial instruments and currencies. Releasing the London Stock Exchange from the cartel arrangements that had ruled it, Big Bang – more of an implosion that an explosion – sucked in potential market-makers from the US, Japan and elsewhere. It delivered the large American banks, especially, from the restrictions of the Glass-Steagall Act and made London an attractive site for investment (Hobson 1991).

The British government's move to privatize large parts of government enterprises has stimulated an internationalization of primary markets (Neate 1987). The simultaneous offering of British Gas, for example, on the British, American, Canadian and European markets required the co-ordination of many banks, law firms, accounting firms and renegotiation of several sets of domestic securities laws.[3] British Gas is one of a chain of privatizations that includes the water, telephone and electric utilities, the coal industry and the railway industry. Germany, through the *Treuhandstalt*, is privatizing the businesses of the former East German republic. And with the 'Velvet Revolution' in Eastern Europe privatization has become an international sport.

Internationalization is also evident as corporate raiders seek investment opportunities overseas. Carl Icahn muscles into Japanese companies; Hoylake, the offshore raiding company established by Goldsmith and Rothschild, attempts to take over British American Tobacco (BAT) and its related companies including Farmers Insurance. Similarly, the business failures of the 1990s are international, as in the cases of the Maxwell publishing empire and the Olympia & York construction development business (Carrington and Murphy 1992; Flood and Skordaki 1993). Modern business, then, appears to acknowledge no borders. And the professions that serve capital also are beginning to function in a global system that transcends the nation-state.

This process is not, however, unilinear and necessarily progressive. We are not witnessing an inexorable move to globalization that will promote a universal order. Perhaps Michael Lewis grasped the nature of the problem, when, in *Liar's Poker*, he said, in conversation with another Salomon Brothers trader:

> I didn't know, I gulped, that there were two hundred and eighty-five investment bankers in the whole world.
>
> 'There aren't,' he said. 'There are more. *And they are all the same.*'
>
> In other words, the whole idea of globalization was a canard. . . .
>
> Debt issuance and bond trading were no longer the domain of a single firm, but of hundreds. Many of the new players didn't share our exalted

> sense of self-worth. Japanese banks such as Nomura, American commercial banks such as Morgan Guaranty and European monoliths like Crédit Suisse were all willing to do the same job as Salomon Brothers in Europe, and for far less pay.... They had the same information we did. Information, with communications, was becoming cheaper and easier to obtain.
>
> (Lewis 1989: 232–3)

First, the type of globalization we are experiencing is in the international financial markets (Crook 1992a); most other spheres of activity are still constituted in micro-markets. There are limits to globalization and these limits are, amongst others, I shall argue, a function of culture. For the restraints of culture often produce unexpected results. The arguments between the United States and Japan over their trade relationships attest to this (Smith 1989a).

One constraint on globalization is that for the most part international business is located primarily in three super-regions, namely, North America, Europe and the Pacific Rim. Most of Africa, South America and Asia is of minor value to big business compared to the big three regions. This is also reflected in the structure of such supra-national institutions as the Group of Seven.[4] Together these three super-regions are a set of interlocking units that dominate world commerce. Their importance is emphasized in a report issued by the Japanese Ministry of International Trade and Industry which warned of the dangers of unregulated regional economic integration. The report said: 'We should bear in mind that economic integration may end up significantly reducing the world economy and world trade if the wrong method is employed' (*International Herald Tribune* 1991: 13). The private sector is also acting on the principle of regionalism in its goal to become global. In an interview the president of Nomura Securities, the largest financial institution in the world, said:

> We are seeing the emergence of regional economies and regional investment houses that have global links. People once thought globalization meant a simple integrated financial market. That sounds good, and perhaps if everybody agreed on deregulation and standardized rules, we would have that simple integrated market. But in the real world – the world where real business is done – globalization is neither simple nor integrated.
>
> (Schrage 1989: 71)

Another Japanese commentator has written in a similar vein:

> Decomposing the corporate center into several regional headquarters is fast becoming an essential part of almost every successful company's transition to global competitor status... [I]t is consistent with recent

> developments in Europe as it moves toward 1992, in North America . . . and in Asia. . . .
>
> (Ohmae 1989: 137–8)

Dicken (1992) points out, using the global advertising companies as his example, that even those services that strive for global reach have problems in attempting to integrate the scattered parts of their companies: that is, globalization has not been achieved.

The concept of culture is inextricably important in the analysis of the globalization of business, yet it is elusive. As the statements above demonstrate, the concept of globalization is easy to enunciate but difficult to achieve. Smith (1989a) suggests that culture is often granted the role of a residual category without being fully examined. He warns us not to fall into 'the trap of thinking of "a culture" as an immutable set of practices, beliefs and meanings' (Smith 1989a: 428; cf. Church 1985). Because culture is tied to place and history, we should think of it as a moving, not a fixed, target. The culture of professions is a reflexive entity: the beliefs, myths, habits, norms and ideas are constitutive of the structures and constituted by them (Silbey 1992). That is, cultural analysis examines the construction of both the history and present social order: it is interested in style as much as substance. It was Weber who said, 'we are *cultural beings*' (1949: 81). These elements of culture display themselves in actual practices and in the media and other texts.

In the case of the professional restructuring of the global market we are concerned with two aspects of culture, namely, national culture and organizational culture and their interaction (Soeters and Schrueder 1988; cf. DiMaggio and Powell 1983). For example, in their study of six Dutch accounting firms, three Dutch and three belonging to Big Eight firms and all with Dutch employees, Soeters and Schrueder found that there was significant American influence on the culture of the Big Eight firms. However, they hypothesize that this influence is not so much due to socialization but rather to self-selection, which runs contrary to explanations in much of the organization literature. Their study is at least suggestive about the extent of the strength of the force of the 'Americanization thesis' that has been promulgated.

There are two further points confounding the analysis. They concern the spatial and temporal. When we talk of globalization we essentially refer to markets in financial services rather than what some call the 'real economy' of goods. Financial goods are easily and quickly transferable, yet they are produced in three major locations – New York, London and Tokyo – each with its own distinctive regulatory schema and social structure (Sassen 1991). Even with English as a *lingua franca* for commerce and finance, personal interaction between these three centres is fraught with contingency. Business people agonize over the correct form of manners

and meanings embedded in apparently simple statements (Page 1990). For example, Americans and British remark on the apparent inability of the Japanese to say 'no' directly. Their very indirection creates impressions of agreement where none exists (Goldenberg 1988). In a geographical sense the world is vast and sometimes unbridgeable, but chronogeographically the world has shrunk almost to the size of a pea. Instantaneous and simultaneous communication is the norm thereby creating the 'global village' (Boden 1990). Events such as financial crises and revolutions occur, develop and mutate not within days or weeks but in minutes and hours via satellite news organizations like CNN. And even more mundane, everyday happenings are reflexively adjusted in the same ways. It is the temporal aspect that makes globalization possible; it is space and culture that make it difficult to carry it through to its fullest potential.

The struggle for globalization then involves conflict with culture. As I shall indicate in the next section, the hoped-for promise of globalization for the legal profession and less so for the accounting profession has not been fulfilled because in large part these professions have been unable to determine accurately their roles *vis-à-vis* the other financial professions or how to free law and accounting from their particularistic contexts. But as significant elements of the legal and accounting professions move away from law and accounting proper to business consulting, their chances of expanding overseas improve, but so do the dangers in changing.

LAW, LAWYERS, ACCOUNTANTS AND INTERNATIONALIZATION

For elite corporate lawyers the legal world contains three systems of importance, namely, the Anglo-American, the civil and the Islamic. For purposes of this chapter I am excluding the third because of its limited significance over the last decade and a half, especially as OPEC has lost its control over the world petroleum market (cf. Delaunay 1992). The common law and civil code systems are quite different (Whincup 1992), but have nevertheless permeated each other in some countries. For example, the Scottish, Sri Lankan and South African legal systems are essentially civil code types with English common law overlaid. Japan acquired the German code system, which following the Second World War was influenced by American common law (Schlesinger *et al.* 1988: 322). For business transacted in the world – i.e., the three super-regions – these two systems predominate (Glendon *et al.* 1985). The two legal systems have produced remarkably different legal professions (Abel 1988). While the common law legal professions have produced, at the most, three divisions of judge, advocate and office lawyer (i.e., barrister and solicitor), the civil code system has produced a plethora of types of lawyers – for example, notaries, magistrates, judges, advocates, civil servants, prosecutors – all as discrete

categories. Moreover, as Rueschemeyer (1973) has argued, following Weber, common law lawyers are primarily associated with the market, while civil lawyers are aligned more with the state. Even though Rueschemeyer has argued thus, Weber maintained, '[Adjudication by *honoratiores*] may thus well stand in the way of the interest of the bourgeois classes and it may indeed be said that England achieved capitalistic supremacy among the nations not because but rather in spite of its judicial system' (1978: 814; cf. Albrow 1975; Feldman 1991). So, given Weber's categories of legal thought and their relationship to the development of capitalism and to lawyers, why have the common law lawyers been so conspicuously successful in marketing their skills and legal systems, and why have the civil code lawyers lagged so far behind? To begin to answer the question in the context of globalization and culture, I examine the recent developments in the American and major European legal and accounting professions, and then continue looking at the organizational and work aspects.

It is clear from a cursory perusal of the financial and legal press that common law lawyers are very closely tied, and have been for some centuries, to the market (Rueschemeyer 1973; Sugarman 1993). In the City of London many connections were formed through the livery companies and the City institutions. Dennett notes that Mihill Slaughter, father of William, co-founder of Slaughter and May,

> As well as members of the [Stock] Exchange, Mihill had a wide acquaintance among the bankers, accountants, solicitors and promoters whose professional life revolved around the market. It was possibly such an acquaintance with John Morris of Ashurst Morris Crisp & Co. (or perhaps fellow-membership of the Fishmongers' Company) that led to the offer of an appointment as an assistant solicitor for Mihill's son William when he qualified in July 1879.
>
> (Dennett 1989: 16)

These traditions were reinforced in 1977 when the City of London Solicitors' Company made the claim in its submission to the Royal Commission on Legal Services that City solicitors *market a product and that product is English law* (1977, emphasis added). And Steven Brill emphasized these tendencies from an American perspective when he wrote in 1985 of the takeover of Sullivan & Cromwell by Shearson Lehmann/American Express. A source quoted in the article said 'we're going to restructure S & C's fees so that in mergers and acquisitions they'll charge a percentage of the deal, the way investment bankers do.... Charging by how long something takes some lawyers is nonsense' (Brill 1985: 14). He went on to say that the normal leveraging of one partner to two or three associates would be replaced by a more economic use of 'back-office grunts' at a ratio of one to ten or one to twenty (ibid.). Of course, Brill's article and the quotations

were pieces of inspired fantasy in 1985, but no longer. British legal culture has already begun to realize Brill's fable.

One episode that highlights a legal profession's joint and several responses to attacks on its core values was the reform of the British profession by the Thatcher government. At the beginning of 1989 the British government published three Green Papers (i.e., discussion papers) on the reorganization of the legal profession. The proposals they contained were far-reaching, radical and dramatic. The Lord Chancellor's Department proposed:

> that free competition between the providers of legal services will, through the discipline of the market, ensure that the public is provided with the most efficient and effective network of legal services at the most economical price, although the Government believes that the public must also be assured of the competence of the providers of those services.
>
> (Lord Chancellor's Department 1989: 1)

The argument proffered was purely economic and in tune with the *laissez-faire* principles of Thatcherism, with no regard for the traditions of the legal profession (Bishop 1989). In two areas in particular the Green Papers proposed that the legal profession follow the route of others, such as the accountants, and form multidisciplinary practices (MDPs) and multi-national practices (MNPs) (ibid.: 43–8). Both MDPs and MNPs could take a corporate form without lawyers necessarily controlling the company. Two surveys, by Gouldens (a City law firm) and the City of London Solicitor's Company, showed City lawyers and accountants greatly in favour of MDPs and MNPs. But they did not agree as to the possible benefits to be conferred. In its response to the Green Papers, the City of London Solicitor's Company wondered about the identity of the profession and its work (City of London Law Society 1989). The response said:

> Under an MDP regime, it could be said that solicitors would have a choice: whether to concentrate on essential core legal business and services closely related to it or whether to diversify into the more broadly-based conglomerate consultancy business of which the legal services would merely be a part. The choice, it might be said, would fall to be tested by market forces and this would itself be no bad thing.
>
> (Ibid.: 39)

After this nod in favour of competition, the Company continued:

> The trouble with this scenario is that the loss of focus which would be the inevitable result of absorbing the legal function into a larger mixed practice (unless it were run as a discrete business) would tend over a period of time to blunt the public's conception of even that part of the legal profession which declined to go into MDPs. Whatever were then

> perceived to be the sins of solicitors practising in a multi-disciplinary form would tend to be visited on solicitors practising independently. This would be most undesirable. If the legal profession is to continue and build on its considerable record of success of serving the public in recent years, it is almost certainly better to do this by concentrating on what it knows and does well. The further it gets away from these things the more likely it is that it will come unstuck and its reputation founder. (Ibid.: 39)

This ambiguous approach indicates the multiplicity of constituencies a professional association has to serve (cf. Lee 1992). We can see the pervasiveness of the culture of formalism and legalism, a retreat into a rhetoric of core values, still flourishes when the Company refers to 'concentrating on what it knows and does well'. Historians have shown that solicitors diversified their portfolios of work continuously to meet actual and perceived client demands (Sugarman 1993): lawyers were (and are) entrepreneurial. Also one could question what the Company meant by 'record of success'. In spite of their doubts it was understood that City law firms operated within a competitive environment and that too great an adhesion to Luddite principles would only harm their business.

Such feelings failed to deter others in the legal profession. The judiciary, barristers and non-City solicitors remained consistently opposed, to the extent that the bar hired Saatchi & Saatchi to run an advertising campaign on the theme: '300 years after the Bill of Rights, a Bill of Wrongs .... A system of justice, envied throughout the world, and that has taken over 700 years to develop, has been given just 12 weeks by the Government to justify itself' (Bar 1989).[5]

In some respects the Green Papers reflected trends that were already in motion. One example of the trend to transnational business was typified by Macfarlanes, a City firm of solicitors, which formed the coyly phrased 'strategic alliance' with O'Melveny & Myers of Los Angeles (Flood 1989a; *International Financial Law Review* 1989c: 6; Rice 1989: 16). Other examples were Allen & Overy, one of the London Big Ten firms, opening a Paris office that had 'strong links' with a major firm of *avocats*, Gide Loyrette Nouel (*International Financial Law Review* 1989b); and Ashurst Morris Crisp opening a joint office in Tokyo with Sidley & Austin of Chicago.[6] There are, however, costs to non-merged alliances. Both Allen & Overy and Gide Loyrette expressed their commitment to remain independent of each other. Nevertheless, both were reported to have lost substantial quantities of referral business (Fennell 1989c). One partner of a large English law firm talked of his firm's membership in 'Le Club', an elite syndicate of law firms in Europe and the US. He saw it as an alternative to his firm setting up foreign offices.[7] The next logical step was taken by the Law Society when it published rules on multinational partnerships

(MNPs) (Stewart 1991). However, the insurance requirements of the rules have placed enormous costs on large law firms thus effectively barring any serious MNPs by *foreign* law firms being set up in the UK, whereas *UK* firms do not find it so expensive (Flood 1993).

The other trend, towards the establishment of MDPs, has been promoted primarily by the big accounting firms. Coopers & Lybrand Deloitte, one of the Big Six, advertises itself as satisfying 'client needs by developing multi-disciplinary teams of professionals including barristers, solicitors, actuaries, insurance professionals ... ex-Inland Revenue ... staff, and chartered secretaries' (Flood 1989a: 5). And some law firms have already been approached by investment banks and accounting firms for merger talks. Conversely, one City law firm has considered taking over a smaller firm of accountants. I shall return to the accounting firms below.

There is clear evidence that both professions are and have been proactive and entrepreneurial in selling their services. The senior partner of Gouldens, a City firm of solicitors, said that his clients, for example, Lord Hanson, the corporate raider, demanded an entrepreneurial outlook that matched theirs; they were not satisfied with just legal advice. He referred to one client 'who wanted to know whether he could do a deal. He wasn't in the least concerned with the legal side. He just wanted to know if he could do it – yes or no.' Three statistics attest to City solicitors' commercial success. First, 30 per cent of cases of the Commercial Court's docket, the elite division of the High Court in London, were between non-British disputants (*The Times* 1989). Second, in 1988 British law firms generated £300 million in overseas earnings (*Law Society's Gazette* 1989).[8] Third, the top twenty City law firms accounted for a third of English lawyers' total fee income of almost £4 billion in 1990 (McCullough 1990). Table 6.1 provides a breakdown among the top twenty City law firms.

In terms of globalization, the importance of the EC Single Market is marked. It affects not just the European legal professions, but also the American and Japanese. In a speech Jaques Delors, President of the EC Commission, prophesied that by the end of the century, over 80 per cent of the European Community's laws would issue from Brussels rather than member states' legislatures.[9] And in the eyes of many lawyers Brussels has become the Washington, D.C. of the east, where it is necessary to have a presence in order to lobby the Commission (Sontag 1989). For example, the government of Hong Kong retained a Belgian law firm to advise on EC anti-dumping law: the first time a government has hired a law firm to advise on international trade (*International Financial Law Review* 1989a; cf. Rozen 1990). One English lawyer stated that up to 70 per cent of his chargeable time was spent on lobbying. Yet another commentator has remarked that 'lobbying the European Commission is like trying to push a jelly with a blancmange' (Burnside 1989: 49). Lawyers are becoming more open about being lobbyists in Brussels (Flood 1993). But there is a

Table 6.1 Top 20 law firms in England and Wales by market share based on gross fees in 1989

Law firm	*Gross fees (£ millions)*	*Market share (%)*
Clifford Chance	183.8	4.2
Linklaters & Paines	113.1	2.9
Lovell White Durrant	97.5	2.5
Slaughter and May	85.8	2.2
Freshfields	81.9	2.1
Allen & Overy	74.1	1.9
Herbert Smith	70.2	1.8
Simmons & Simmons	70.2	1.8
Denton Hall	68.3	1.7
Norton Rose	68.3	1.7
McKenna & Co	54.6	1.4
Nabarro Nathanson	50.7	1.3
Richards Butler	48.8	1.2
Cameron Markby Hewitt	42.9	1.1
Evershed Wells & Hind	42.9	1.1
Wilde Sapte	39.0	1.0
Stephenson Harwood	35.1	0.9
Clyde & Co	35.1	0.9
Turner Kenneth Brown	35.1	0.9
Alsop Wilkinson	31.2	0.8
Total for top 20	1,302.6	33.4
Other (9,795) firms	2,597.4	66.6
All firms	3,900.0	100.0

Source: McCullough (1990: 7)

clear division between the outlook of the English and the American law firms. English lawyers are convinced that American lawyers do not have the nous to operate in the EC. They suffer from the perceived defects of being extra-Communitarians and being overly aggressive in their tactics (Rice 1990). As one lawyer described it, 'Thinking you can bully a Commission bureaucrat because you are a hot-shot lawyer from Washington loses you friends very quickly.' The rules of the lobbying game are such that the client's name is rarely disclosed to the Commission. The allure of the Commission has been strong: by 1989 113 foreign law firms had established offices in Brussels (Burnside 1989). With the advent of the Merger Regulation, however, 'many firms on both sides of the Atlantic with strong competition/anti-trust/M&A practices felt unable to stay away any longer' (Rice 1990). The burgeoning of the EC as an area for practice has intensified the scope of differences between the common law practitioners and the civil code lawyers. The aggressive Anglo-American style of lawyering contrasts markedly with the European cottage style. But the EC was largely, until the entry of the UK, the preserve of the civil lawyers. Nevertheless, Rice notes, 'To succeed in Brussels, [Anglo-American] firms

need to form alliances with the best European corporate lawyers and bring them into partnerships on equal terms. Over the years this is what Clearys has done and that is why Cleary Gottlieb Brussels is to many the only true European law firm around' (1990: 33).[10]

Mega-law has been fundamentally a North American and British phenomenon (Gallanter 1983b; Flood 1989b; Dezalay 1991). Despite its short history, mega-law has begun to establish a culture that is evidenced by the introduction of a vigorous legal press (Powell 1988) – for example, in the US, *The American Lawyer, The National Law Journal, The Legal Times of Washington*; in the UK, *The Lawyer, The International Financial Law Review, Legal Business* – which has lionized certain lawyers for their 'macho' approaches to the law (cf. Lisagor and Lipsius 1988; Wolfe 1987; Stevens 1987; Stewart 1983). The tenth anniversary issue of *The American Lawyer*, for example, wrote this of Joe Floam of Skadden Arps, the lawyer who pioneered the hostile takeover:

> One can admire the superlatives that attach to Joseph Flom, or be jealous of them. But there is no denying them and no denying that Flom personifies the best aspects of the new age of lawyering. Joe Flom, 65, is among the best lawyers in the profession, an Old World generalist with encyclopedic recall of case law and deal and litigation strategies, a whirlwind of creativity, a near-caricature of perseverance. He defines the concept of client service. He is also the consummate lawyer-businessman, a visionary entrepreneur who took Skadden, Arps, Slate, Meagher & Flom from a 160-lawyer, $30 million-revenue, mostly one-practice shop ten years ago to a 1,000-lawyer, multifaceted, multioffice institution that will gross $400 million in the 12 months ending this March [1989].
>
> (Brill 1989: 66–7)

The point about these encomiums is that they are a collaborative exercise between the law firms and the journalists (one can draw analogies with labelling theory and deviance amplification theory here). They are an attempt to establish the hegemony of the legal profession over others by boosting, and an attempt to write a new culture of the corporate law firms. The journals heighten their status and sales by boosting the prestige of mega-law and its firms hone their public relations images through the journals and an increasingly competitive market; and so it goes on.

In England the City law firms have similarly been able to boost their images through their long-standing ties with City financial institutions, upon which they were formerly reticent. Freshfields, one of the oldest City firms, traces its connections back to 1743 when Samuel Dodd, one of its partners, was appointed solicitor to the Bank of England, still one of its clients (Slinn 1984). At least two other City firms – Slaughter & May and Linklaters & Paines – have commissioned and published histories to

circulate to their clients and others. These provide interesting exemplars of the use of history for ideological purposes.

Elite law firms are revelling in this hagiography. It reveals them as spirited, virtuous and progressive. And the English legal press now writes similar profiles to those in America. *Legal Business* described a planning lawyer, David Cooper, at Gouldens, thus:

> 'All my friends are my clients,' he claims. 'I don't have a private life.' That is the only possible explanation for the fact that he personally billed £1.75m last year.... That means that Cooper's department... billing £2.4m, was responsible for more than ten per cent of... Goulden's gross fees last year... Cooper claims that he probably works 4,500 and 5,000 billable hours a year – which boils down to between 12 and 13 hours *every single* day of the year – and an average of nearly £400 an hour if based on a strict hourly basis. 'Work it out,' he challenges, 'I start at 7am and start charging, charging, charging.'
>
> (Dillon 1992: 25)

In indulging thus, the Anglo-Saxon firms have certain advantages over the European firms. Many of them have names steeped in history – Freshfields, Sullivan & Cromwell, Linklaters & Paines, Cravath Saine & Moore, etc. – which they can retain even though the named partners are dead, an institutional bulwark against change and fission. The Anglo-Saxon firms can advertise in the US and UK; they can merge freely with other law firms in their countries. But with the diverse types of lawyers in the European countries, law firms have typically remained small. In neither Germany nor Italy can law firms institutionalize a name in the manner of the American and English firms, which creates difficulties in establishing stable, enduring identities, nor can they merge with the same ease as the Anglo-Saxon firms.

These differences are becoming of more pressing concern now that the EC Commission has issued its directive on recognition of diplomas (Reynolds 1988; Carr 1988). The principle of the directive is that all professional diplomas from member states will be recognized throughout the EC. In some respects the directive has provoked some member states into attempting to tighten their rules.

France has generally had a liberal policy towards foreign lawyers, allowing them to establish themselves as *conseils juridiques* (business advisers) along with French practitioners (but not as *avocats* with rights of audience) (Boigeol 1988; Morton 1988). With the French legal profession having fused the *avocats* and *conseils juridiques* into a single group of *avocats*, the Bar now requires that any lawyer wishing to give advice in France must be a member of the French legal profession (*International Financial Law Review* 1991a: 2).[11]

Given the small size of French law firms and their fears of a post-1992

Anglo-Saxon invasion, it is understandable that they are trying to preserve, albeit monopolistically, their legal and organizational cultures. A partner in Gide Loyrette & Nouel put it this way:

> There is no feeling of panic as to the future of the smaller French law firm. In some ways this is unfortunate. French lawyers have not really grasped the dimensions of what will happen, as they don't think that there will be any radical change. And yet there are going to be some serious competitors. Associations will become much more usual. The advantage of an association is that it enhances the international development of firms, which gives the client the confidence that they will be dealt with by someone whom you consider to be the best.
>
> (Muinzer 1990)

Conseils juridiques were not embedded in the ideology of the *ancien régime*. They possessed the freedom to take any form they wished, from partnership to limited company. But now the profession is one of *avocats*, with the Bar trying to reassert its primacy by prying into the commercial affairs of the firms – wanting to see tax returns and details of personal and firm income (Stewart 1992a). Some business law firms are considering moving out of the Paris Bar to the Nanterre locality which includes La Défénse and Neuilly where many of the legal offices of the large accounting firms are based. The pressures of internationalization are strong. In preparation for 1992, exchange controls were relaxed, the French government liberalized in the conduct of financial work and banks and new financial institutions from the US, UK and Japan have been created in Paris. Whereas these institutions are benefiting from liberalization, for law firms in France cross-border mergers with foreign firms have been thrown into confusion with the new law.

These pressures can be exemplified by the situation in the German legal profession. The German Bar has a stiff set of restrictive practices, which generally restricts lawyers (*Rechtsanwalt*) to practising within their own localities and prohibits firms from merging across localities (Morton 1989). A recent decision in the European Court (*Commission* v. *FDR* 1988) ruled invalid the requirement that a local lawyer must be present in the courtroom with a foreign lawyer.[12] Some law firms with international practices have interpreted this decision to mean that they can merge across localities. A partner in a Hamburg firm commented:

> Our competitors are the Anglo-Saxon firms, the specialist boutique firms and the chartered accountants, who do a great deal of business advisory work in Germany. How do we resolve this impasse? I believe that if a number of the leading firms get together and agree to flout the rules we might achieve something, but one firm alone cannot do it.
>
> (Morton 1989: iii)

In part, these conflicts arise because to German lawyers international work and business law have never been a mainstream form of work; instead, the emphasis has generally been on court work. Thus in order to gain expertise in the field, young lawyers have sought training in the US or the UK, thereby risking 'contamination' with Anglo-Saxon entreprenuerial mores. Nevertheless, the unexpected political union of East and West Germany has thrown German lawyers into a classic field of Anglo-Saxon law, namely, privatization. The *Treuhandanstalt*, the trust set up to sell off East German businesses, has created a huge volume of work:

> The role of the lawyer is ... 'different from what is normally required in West Germany' and much closer to the Anglo-Saxon model. A heavy involvement at the pre-merger stage, coaching clients, structuring, formulating proposals, advising on strategy and lobbying all form part of what the lawyer may be called upon to do. The lawyers love it. 'We just know so much more about the process, the thinking of the parties and the valuation of risks'. ...
>
> (Stewart 1992b: 15)

An extreme situation obtains with the Italian legal profession. The dominant theme of law practice is the culture of individualism (Carr 1989; Olgiati and Pocar 1988; Stewart 1992e). Elite lawyers aspire not to partnership but to solo practice. Carr (1989: iii) describes the situation thus:

> The root of the law firms' historical inability to grow lies in one simple fact. As they themselves openly admit, they are trained from the cradle to be *prima donnas*. No Italian wants to be one amongst many. From law school on the majority of Italian lawyers aspire to set up their own firm. Bucking that trend can cause difficulties, as one lawyer in what, in Italian terms, is a large firm illustrates, 'When I returned from the US and joined this firm my father said "What's the matter? Don't you have the courage to set up on your own?" '

Institutionalizing a law firm is fraught with difficulty. Retaining young lawyers means competing with the better salaries offered by the banks, for example. The political economy of Italy is such that most large international financial deals are made in Milan, but require the sanction of the government in Rome, creating pressure on a number of firms to try to maintain offices in both cities. In addition, the 1939 law on professional associations prohibits the formation of a true partnership, so 'all letters and opinions have to be signed by the individual lawyer, not the partnership, leaving the lawyer alone responsible' (ibid.: iii). Yet law firms exist as *de facto* entities (cf. Olgiati 1993).[13] This emphasis on individualism subverts moves to more collectivist organization-building, which in turn feeds the Italian ideology of professionalism that is antagonistic to the internationalization of business law. As a result, in Italy mega-law firms

such as Baker & McKenzie are gaining ground in international law practice and the big accounting firms (with their hybrid accountant-lawyers, the *commercialisti*) are also offering advice on the legal aspects of putting deals together.

In Europe, as in the Pacific Rim, the Anglo-Saxon common law culture has begun to prove its hegemony, in the form of business people wanting to do deals based on it, in preference to the civil code counterpart. But this hegemony operates within limits, namely, that lawyers perceive themselves as lawyers and not businessmen. MacDonald articulates this conundrum well from the perspective of an American lawyer: 'I believe modern lawyering and law firms have always been conducted as a business enterprise. For some reason, many leaders of our profession seem to cringe at this thought' (1989: 594). This ideological constraint militates against the kind of expansion that the big accounting firms have undergone.

The success of the accounting firms *vis-à-vis* law firms in internationalizing can be traced to a heterodox view of business development. Accounting firms have piggy-backed on their auditing – which gives them a global picture of any client and an invaluable entrée, an advantage denied lawyers – and diversified into fields other than auditing, such as management consultancy, tax and corporate reconstruction (Montagna 1974; Stevens 1981; Perks 1992). The Price Waterhouse *Annual Review* for 1986–7 shows, that of all the services offered by the firm – audit, tax, management consultancy and insolvency – management consultancy grew by 27 per cent over the previous year, more than twice the rate of auditing (Price Waterhouse 1986–7: 5). There is an equivalence between law and accounting here. The core knowledge bases of both are subject to similar cultural constraints: law and accounting are jurisdiction-bound. For example, the British and French accounting conceptions of 'true and fair' views in accounts are quite different (Freedman and Power 1992; Kerviler and Standish 1992); and attempts to introduce standardization and harmonization into accounting practices are recognizably distant (Waters 1989; Freedman and Power 1992; Weetman *et al.* 1992). Even the international accounting bodies, such as the International Federation of Accountants (IFAC), put forward a grand vision along the lines of 'the global accounting profession is becoming a reality' (Barrett 1992: 110). Yet they follow it with the rider, 'IFAC's ethical and auditing standards are now widely accepted even though true harmonization is not possible because of differences in cultures and regulations of various countries' (ibid.: 113).

Accountants also frequently assume the role of broker between professions. The director of international services at a Big Six firm stated:

> When the client wants to invest in a foreign country operation, he needs advice on tax structures, restrictions on capital investment, and the like. He comes to the public accountant and not the investment banker. Taxes

> play a very important part in this role. There is a lot of work relating to new tax treaties. Just yesterday I had a West German client sitting [here] who needed advice on how to structure sales to get the best tax advantages so as to not hinder his company's overall operations in other countries. Very frequently clients will ask us, 'Can you recommend bankers?' Or, 'Can you recommend lawyers?' We suggest several and let them make the final choice. Very frequently we have to tell even the largest MNCs they need them, especially attorneys.
>
> (Montagna 1986: 107)

In continental Europe the accounting firms have been particularly successful in establishing MDPs. For example, in France Arthur Andersen has twenty-five full-time lawyers in tax, company law, M&A, and labour law; Coopers & Lybrand Deloitte has 120 legal professionals in tax, business law and labour law; Ernst & Young has fifty-five full-time lawyers in tax, company law, M&A, contract, EC, competition, labour, intellectual property, banking and finance (Eburne 1991: 18). One accountant argued, 'We want to be seen as the number one business advisers; and the law is very clearly relevant to that. The demarcation point is very fluid. There is an increasing overlap and competition in all services that can be described as business advisory services' (ibid.: 16). Whereas the MDP principle grew from the tax work, the accounting firms' legal work is favouring corporate and company law over tax.

Although the accounting firms more or less remain partnerships, they have altered their internal structures to reflect modern bureaucratic trends. Instead of the simple partner and associate division of the law firms, accounting firms have seven or eight levels, namely, junior, supervisor, senior supervisor, manager, partner, executive and senior partners (Montagna 1974: 20). This enables the accounting firms to leverage their staff more thoroughly and extract more rent from them than the law firms (cf. Galanter and Palay 1991; Brill 1985). Even the largest international law firm pales into insignificance against the size of the Big Six. The largest accounting firm in the world, KPMG, the result of a merger, has 5,540 partners and an annual revenue of $4.13 billion; the smallest of the Big Six, Arthur Andersen, has 2,016 partners and an annual revenue of $2.82 billion (*Economist* 1989).[14] Even Skadden Arps, one of the most successful mega-law firms, generated only $400 million in gross revenues in 1988 (Brill 1989) and $500 million in 1990 (Brill 1991).

Expansion and concentration, although they create potential for greater rewards, nevertheless produce conflict. The recent attempt by Arthur Andersen and Price Waterhouse to merge into the largest accounting firm in the world with 4,642 partners and annual revenues of $5.038 billion failed because of conflicts of interest over clients and, especially important, cultural differences in organization. Arthur Andersen operates as a single,

centralized partnership, whereas Price Waterhouse has a more decentralized arrangement allowing more autonomy to regions (Waller 1989). And, despite more than three months of negotiations, the partnerships of the two firms could not reconcile their disparate corporate cultures. Moreover, some national regulations barred the merger. Specifically, both Japan and Canada would have disallowed the merger in their respective countries, which would have left the firm with potentially competing branches in those countries.

Law firms face these conflicts to an even greater extent than the accounting firms. Flom asks: 'Is there a limit? Yes, there is a limit on the growth of a law firm because of anachronistic rules that are being applied. Take conflicts of interest' (Federal Bar Council 1984: 97). The recent failed takeover bid for British American Tobacco by Hoylake highlighted the difficulties that result from restrictions on conflict of interest (*American Lawyer* 1989). Cravath Swaine & Moore, acting for BAT, accused Skadden Arps, acting for Hoylake, of a conflict because of having been counsel for Farmers Group, an investment bank that had been taken over by BAT the previous year. Conversely, Skadden accused Cravath of conflict because it was acting for both BAT and Rothschild Holdings, a partner in Hoylake. Cravath attempted to withdraw its representation of Rothschild Holdings, but Rothschild sued to prevent Cravath from representing BAT. The suit was settled by Skadden withdrawing its Los Angeles office and one of its New York partners from the work. This exemplifies the continuing imposition of a relational ideology on what has become a transactional business. In other words, the diminution of long-term relationships between law firm and client in favour of the short-term transactional relationship has not been mirrored in the rules that govern these practices. So as the ideology of business gains ground, the strains between it and the sacred forms of professionalism intensify and the role of the lawyers begins to change.

Some law firms are also recognizing the need to loosen ties. Baker & McKenzie's non-American offices are largely staffed by local lawyers; this has earned the firm the reputation of being a franchise law firm – a 'McDonalds' (Stevens 1987). Skadden Arps sees itself composed of a series of interlocking boutiques rather than as one big firm, but largely within one legal system. Arnold & Porter has established wholly owned subsidiaries in financial consulting, general consulting and real estate consulting, which places lawyers in the role of co-ordinator, planner and organizer, a role which, Fitzpatrick says, will take lawyers into the twenty-first century (Fitzpatrick 1989).

For law firms, the limits of globalization are inherent in their jurisdictions. The example of the privatization of British Gas demonstrates this clearly (Neate 1987). The UK government intended to issue the shares simultaneously in the UK, Europe, Japan, the USA and Canada. Essentially,

there were few problems between the UK and Europe: the UK prospectus was used with a 'wrap-around' with Europe-specific information. With the USA, Canada and Japan there were major problems with the advertising of the issue and the drafting of the prospectus. The UK government was planning a massive advertising campaign ahead of the publication of the prospectus. The other jurisdictions absolutely forbade any puffing before the filing of their registration documents with securities and exchange commissions. The US and Canadian lawyers had to promise their Commissions that no advertisements would enter North America from the UK, even though with everyone concerned with modern communications technology that promise would be hard to keep. The UK lawyers had hoped to use the document drafted by the UK merchant bank, but the US and Canada lawyers declared that was impossible. This led to the drafting of a 'North American' prospectus, which had to be translated into French for the benefit of Quebec. One dramatic difference between the North American and English documents was in describing the future of the company: the English saw this as portraying a rosy future and the Americans required the risks be emphasized. One of the English lawyers described the process this way:

> Certainly this whole question of how to write prospectuses for various jurisdictions, whose requirements are different in the way I have been describing, is one of the biggest practical difficulties faced on an international share offering of the British Gas variety . . . it is obviously absolutely critical that the same detailed message is being given worldwide about the company, even though the prospectus may have to be in a different order and in some respects apparently different in content. . . .
>
> On the Gas offer, we at Slaughter and May as solicitors to the UK Government, carried out a massive physical checking exercise on all the later drafts of the United States, Canadian and Japanese prospectus, comparing them with the UK base document and marking precisely where there were changes, whether of order or of substance, or even of punctuation, so that these could be carefully examined against the UK base document and assessed by those senior people in the clients and in our firm who were responsible for the UK prospectus. The objective was that at the end of the day all those concerned with the prospectus, in all jurisdictions, would be satisfied that none of the changes made had altered the basic message.
>
> (Neate 1987: 69–70)

Thus, even when the transaction is one that covers the world, it is rendered problematic by particularistic cultural concerns.[15] And even the players in the game found difficulties. As it was primarily a British offering the leader of the professional advisers' team was the merchant bank, with the lawyers

playing handmaiden. For the British this was normal and unquestioned; for the Americans it was perverse. There the lawyers are in charge of this kind of enterprise. They see themselves as the quarterback of the team, planning strategy and tactics (Fitzpatrick 1989).

It should be mentioned here that sometimes the term globalization is used synonymously with Americanization. This is a fundamental error. There may be some Americanization of culture but it may be preferable to talk of the export of American techniques that are adapted to local cultures and so become local knowledge. An illustration is the creation of the 'vitamin pill' defence of Consolidated Gold Fields against the Minorco takeover by John Grieves of Freshfields (MacErlean 1992: 7). Grieves said he derived the idea from Marty Lipton of the New York firm of Wachtell Lipton who invented a takeover defence called the 'poison pill' (Borden 1989: 43). Similarly, there have been situations where American lawyers have been involved in European takeovers, but the consequence of these high-profile activities is that they are copied quickly. Such knowledge can not be patented, so the active life of such expert knowledge is short because its ideological component is low compared to its technical value, that is, the shift from indetermination to technicality is rapidly made (Jamous and Peloille 1970).

If, however, business transactions can be uncoupled from their immediate environment, that is, the transaction does not have to be sanctioned by the local law, then law firms might be able to market a particular type of law for transactions. For example, the Japanese prefer to use English law in debt security work (Scrivenor 1989). Although this should logically give English firms the advantage, sometimes such agreements are made entirely by non-English lawyers. This raises questions about the subsequent interpretation of the agreement. Will that interpretation be grounded in an English cultural perspective or something that only approximates it, a neological English legal culture that will be refracted through an alien system? One area of activity that is directly uncoupled from local law is lobbying, and one can compare American and English efforts in Brussels, as I did earlier. It is evident that the American lawyers have not been conspicuously successful in their endeavours. One can then ask what particular skills American lawyers have that others do not? A certain entrepreneurial flair, an explicit aggressiveness – perhaps. At best we should think of the Americanization thesis as an interesting hypothesis that requires much testing before we can verify it. There is currently a dearth of evidence for testing. And we should ask what would be the appropriate kinds of evidence in this case. No research has yet broached this systematically.

Is it possible for lawyers to maintain a separate role as competitors in international business markets from the accountants and the investment banks? Probably, but it may well be a localized one (cf. Fitzpatrick 1989).

As long as lawyers are tied to particular conceptions of the role of law and operate within particular legal systems, others in the international financial field will compete aggressively and not feel bound by the ideological and cultural constraints lawyers impose on themselves. The French government's tender for lawyers to advise on the creation of a unified business law for the franc zone resulted in competition from such law firms as Slaughter & May and Jeantet & Associés. But the victor was Ernst & Young Juridique et Fiscal (Stewart 1992d: 9). Possibilities for escape from confinement of particular systems lie in the development of alternative structures such as international commercial arbitration. As business begins to rely less on domestic forums for dispute resolution, lawyers are being called on to devise new sets of 'anational' norms (cf. Marriott 1992: 2). Arbitration agreements represents a new form of *lex mercatoria* that is independent of state systems and can be purchased in many forms at many sites (Teubner 1992). And it is interesting that the accountants already consider themselves the inheritors of the *lex mercatoria* (Renshall 1992). The development of EC law as a regional legal system offers lawyers signal opportunities to create new legal forms special to their sets of expertise, especially with the aid of the Brussels and Lugano Conventions on jurisdiction (McLachlan 1992: 40). At bottom, the problem is the nature of law itself. Historically, it has been grounded in diverse cultures and has rarely been deployed across them in the same manner as accounting or business principles. In many respects then, the forces of globalization are creating a tumultuous environment for a potentially endangered species.

NOTES

1 The law firms are well situated. China has been displaying a greater rate of economic growth than most western nations: its rate of growth since 1978 has been 9 per cent per year and the annualized rate of growth for GNP has been 14 per cent for 1992 (*Economist* 1992: 14).

2 The law firms involved in Interjura are: UK: Ince & Co, Marriott Harrison Bloom & Norris; US: Thelen Marrin Johnson & Bridges, Wilmer Cutler & Pickering, Bracewell & Patterson; Australia: Minter & Ellison; Spain: J & B Cremades; France: Gide Loyrette Nouel; Sweden: Mannheimer & Zetterlof; Hong Kong: Masons & Marriott; Holland: Nauta van Haersolte; Germany: Triebel & Weil; Italy: Ughi & Nunziante.

3 In view of the increase in international mergers and acquisitions, the Securities and Exchange Commission (SEC) is relaxing its rules for foreign investors in the US. They will only have to comply with their own securities regulatory schemes. The SEC has also permitted the New York Stock Exchange to extend its trading hours in recognition of the internationalization of the market place (Labaton 1991: 11).

4 The member states are: United States, United Kingdom, France, Germany, Japan, Italy and Canada.

5 After a brief period for review and reply to the Green Papers, the British government issued its legislative proposals in the form of a White Paper. With

the exception of a few minor sops to the Bar, the government remained committed to its original ideas (Ford 1989; *The Times* 1989; cf. Zander 1990). The proposals were enacted in the Courts and Legal Services Act 1990. Those most disturbed by the proposals were, in Dezalay's words, 'the sages and scholars of the law' (the Bar) (cf. Fennell 1989a; 1989b). As a former Lord Chancellor put it, 'The solicitor is a man of business, a barrister is an artist and a scholar' (Aylett 1978: 160). With its traditional monopoly over rights of audience in the courts and hence litigation, the Bar has never *appeared* to give much consideration to the business of law. However, the Bar is as business-minded as the City solicitors and other professionals for whom they work, especially as many barristers now work in law firms. The commercial Bar has formed an association known as COMBAR and publishes a directory of its members and their specialties. Sets of chambers distribute glossy brochures advertising their skills. Barristers compete with solicitors for work at the international level: London chambers have already established branches in cities like Paris and Brussels. And at the 1992 Bar Conference the president of the Law Society warned the Bar to forgo assuming the role of solicitor in addition to their customary rule of advocate.

6 Some law firms are using cross-jurisdictional joint ventures, like Ashurst and Sidley, as a means of setting up offices in Eastern Europe. Ashurst also has the reputation of being the law firm everyone would like to merge with.

7 There is an array of alliances, joint ventures, EEIGs, etc., that various law firms in Europe and the US are experimenting with as alternatives to opening offices. These alternatives are especially important for the medium-sized firms that are unable to finance international expansion by conventional means (cf. Stewart 1990, 1992c).

8 One City solicitor I interviewed was not at all concerned about the American invasion of lawyers to London. He said, 'I think English lawyers are much better than most Americans, except for those in New York and Boston – who are almost English anyway. The reason is we use language with precision, whereas American lawyers use language in blocks to convey emotion, so English documents are drafted better. Americans are much too prolix.' But another solicitor wrote, 'There has been allowed to develop a form or style of drafting, possibly stemming from anti-avoidance tax legislation, which ranges from ambiguous to downright vague, such that it is all too often impossible to know with any certainty whether or not a given course of action will or will not turn out to be within the law' (Legge 1991: 3).

9 One example of far-reaching EC legislation is the merger regulation, which will shift the control of international mergers and acquisitions from local jurisdictions to Brussels – a case in point was Hanson's attempt to take over ICI.

10 Some lawyers I interviewed are convinced there has been a retrenchment in Brussels because the American lawyers could not apply the same techniques as in Washington, D.C. (cf. Greenhouse 1991). Griggs (1992), a member of the UK delegation of the CCBE, has predicted that the EC Commission will soon propose a new structure for European professions that will not be bound by discipline or borders.

11 There are indications that the EC Commission might take action over the French reforms of the legal profession (*International Financial Law Review* 1991b: 4).

12 This was reinforced in 1991 when the European Court decided the case of *Sagen* v. *Dennemeyer*, which said that 'a UK based patent attorney, Dennemeyer & Co Ltd, could continue issuing patent renewal notices to its German based client

companies in spite of a German law which effectively gives local patent attornies a monopoly in patent work' (Stewart 1992a: 18).

13 Stewart (1992e) notes that some firms have now reached fifty to sixty lawyers strong.

14 In the *International Accounting Bulletin* of January 1990, the international personnel of the then Big Five accounting firms were: KPMG: 74,000; Ernst & Young: 68,300; Coopers & Lybrand: 62,500; Arthur Andersen: 51,400; and Price Waterhouse: 41,000.

15 The current Maxwell Communications Corporation UK insolvency and US Chapter 11 bankruptcy is causing such headaches over co-ordination of seemingly incompatible legal regimes to the UK Chancery Division judges and the US Bankruptcy Court judges that they have now set up an *ad hoc* informal communication line between them to ensure they do not contradict each other (Moss 1992; Carrington and Murphy 1992).

REFERENCES

Abbott, Andrew (1988) *The System of Professions*, Chicago, Ill.: University of Chicago Press.

Abel, Richard L. (1988) 'Lawyers in the civil law world', in R. Abel and P. Lewis (eds), *Lawyers in Society: The Civil Law World*, vol. 2, Berkeley, Cal.: University of California Press.

Albrow, Martin (1975) 'Legal posivitism and bourgeois materialism: Max Weber's view of the sociology of law', *British Journal of Law and Society*, 2: 14.

American Lawyer (1989) '*Cravath* v. *Skadden*: the winner is . . .', *American Lawyer*, Sept. 24.

Aylett, Sydney (1978) *Under the Wigs*, London: Eyre Methuen.

Bar (1989) '300 years after the Bill of Rights, a Bill of Wrongs', *The Times*, 17 March: 14.

Barker, Emily (1991) 'Cleaning up at Sidley & Austin', *American Lawyer*, May: 90.

Barrett, Gene R. (1992) 'Is accounting becoming the first truly international profession?', *Journal of Accountancy*, Oct.: 110.

Bishop, William (1989) 'Regulating the market for legal services in England: enforced separation of function and restrictions on forms of enterprise', *Modern Law Review*, 52: 326.

Boden, Deirdre (1990) 'Reinventing the global village: communication and the revolutions of 1989', unpublished paper.

Boigeol, Anne (1988) 'The French Bar: the difficulties of unifying a divided profession', in R. Abel and P. Lewis (eds), *Lawyers in Society: The Civil Law World*, vol. 2, Berkeley, Cal.: University of California Press.

Borden, Anthony (1989) 'Dealmaker of the decade', *American Lawyer*, March: 43.

Brill, Steven (1985) 'Headnotes: war of the tombstones', *American Lawyer*, March: 1.

Brill, Steven (1989) 'Joseph Flom', *American Lawyer*, March: 66.

Brill, Steven (1991) 'Headnotes: short-term pain, long-term gain', *American Lawyer*, Jan./Feb.: 5.

Burnside, Alec (1989) 'Solicitors European group', *Law Society's Gazette*, 86: 49.

Carr, Josephine (1988) 'Contrary to the spirit of 1992?', *International Financial Law Review*, Aug.: 10.

Carr, Josephine (1989) 'Italian lawyers: learning to live together', *International Financial Law Review*, July: ii.

Carr-Saunders, A. M. and P. A. Wilson (1933) *The Professions*, Oxford: Clarendon Press.
Carrington, Philip and Bennett Murphy (1992) 'Reconciling UK administration and US chapter 11 after Maxwell', *International Financial Law Review*, July: 20.
Church, Thomas, W. (1985) 'Examining local legal culture', *American Bar Foundation Research Journal*, 449.
City of London Law Society (1989) *The Work and Organisation of the Legal Profession: A Response to the Government's Green Paper*, London: CLLS.
City of London Solicitors' Company (1977) *Evidence Submitted to the Royal Commission on Legal Services*, London: CLSC.
Clarke, Caroline (1991) 'Real estate partner eyes the world', *American Lawyer*, May: 101.
Coopers & Lybrand (1989) 'Mergers and acquisitions services', *The Times*, 14 July: 34.
Crook, Clive (1992a) 'World economy: fear of finance', *Economist*, 19 Sept.: 5.
Crook, Clive, (1992b) 'World economy: how it happened', *Economist*, 19 Sept.: 9.
Darbyshire, Chris (1991) 'Frankfurt: the next outpost of Anglo-Saxon empires?', *International Financial Law Review*, Feb.: 17.
Delaunay, Jean-Claude (1992) *Les Services juridiques dans les relations économiques Euro-Arabes (services, cultures, mondialisation)*, Villeneuve d'Ascq: USTL.
Dennett, Laurie (1989) *Slaughter and May: A Century in the City*, London: Granta Editions.
Dezalay, Yves (1991) *Marchands de droit*, Vaucresson: CNRS.
Dicken, Peter (1992) *Global Shift: The Internationalization of Economic Activity*, 2nd edn, London: Paul Chapman.
Dillon, Karen (1992) 'Profile: top billing', *Legal Business Magazine*, April: 22.
DiMaggio, Paul J. and Walter W. Powell (1983) 'The iron cage revisited: institutional isomorphism and collective rationality in organizational fields', *American Sociological Review*, 48: 147.
Eburne, Andrew (1991) 'Accountants and lawyers heading for a showdown', *International Financial Review*, May: 15.
Economist (1989) 'Top accountancy firms', *Economist*, 30 Sept. 65.
Economist (1992) 'Deng's last show', *Economist*, 10 Oct.: 14.
Federal Bar Council (1984) *The Changing Nature of the Practice of Law*, conference proceedings.
Feldman, Stephen M. (1991) 'An interpretation of Max Weber's theory of law: metaphysics, economics, and the iron cage of constitutional law', *Law and Social Inquiry*, 16: 205.
Fennell, Edward (1989a) 'Crumbs of comfort: solicitors have in general been cheered by Lord Mackay's White Paper proposals', *The Times*, 1 Aug.: 27.
Fennell, Edward (1989b) 'Sharing the secrets of success', *The Times*, 15 Aug.: 29.
Fennell, Edward (1989c) 'Firms banking on Paris', *The Times* 29 Aug.: 29.
Fennell, Edward (1990) 'London leads the global race', *The Times*, 18 Sept.: 35.
Fitzpatrick, James F. (1989) 'Legal future shock: the role of large law firms by the end of the century', *Indiana Law Journal*, 64: 461.
Flood, John (1989a) 'Megalaw in the UK: professionalism or corporatism? a preliminary report', *Indiana Law Journal*, 64: 569.
Flood, John, (1989b) 'Megalaw and MDPs: UK and US', *The City of London Solicitors' Company Newsletter*, Aug.: 5.
Flood, John (1993) 'Conquering the world: multinational legal practice and the production of law', in E. Skordaki (ed.), *Social Change and the Solictors' Profession*, London: Oxford University Press.

Flood, John and Eleni Skordaki (1993) *Corporate Failure and the Work of Insolvency Practitioners: Professional Jurisdiction and Big Corporate Insolvencies*, ACCA Certified Research Report: London: Association of Certified and Corporate Accountants.

Ford, Richard (1989) 'Mackay pledges flexible and speedier legal system', *The Times* 20 July: 4.

Freedman, Judith and Michael Power (1992) 'Law and accounting: transition and transformation', in J. Freedman and M. Power (eds), *Law and Accountancy: Conflict and Co-operation in the 1990s*, London: Paul Chapman.

Galanter, Marc (1983a) 'Reading the landscape of disputes: what we know and don't know (and think we know) about our allegedly contentious and litigious society', *UCLA Law Review*, 31: 4.

Galanter, Marc (1983b) 'Mega-law and mega-lawyering in the contemporary United States', in R. Dingwall and P. Lewis (eds), *The Sociology of the Professions: Lawyers, Doctors and Others*, London: Macmillan.

Galanter, Marc and Joel Rogers (1988) 'Corporations in court: trends in American business litigation', unpublished paper.

Galanter, Marc and Thomas Palay (1991) *Tournament of Lawyers: The Transformation of the Big Law Firm*, Chicago, Ill.: University of Chicago Press.

Geertz, Clifford (1973) *The Interpretation of Cultures*, New York: Basic Books.

Glendon, Mary Ann, Michael W. Gordon and Christopher Osakwe (1985) *Comparative Legal Traditions*, St Paul, Minn.: West Publishing Co.

Goldenberg, Susan (1988) *Hands Across the Ocean: Managing Joint Ventures with a Spotlight on China and Japan*, Cambridge, Mass.: Harvard Business School Press.

Gordon, Robert W. (1984) 'The ideal and the actual in the law: fantasies and practices of New York City lawyers, 1870–1910', in G. Gawalt (ed.), *The New High Priests: Lawyers in Post-Civil War America*, Westport, Conn.: Greenwood Press.

Graving, Richard J. (1989) 'The international commercial arbitration institutions: how good a job are they doing?', *American University Journal of International Law and Policy*, 4: 319.

Greenhouse, Steven (1991) 'U.S. lawyers flock to Brussels', *New York Times*, 13 May: 1.

Griggs, Jeremy (1992) 'The potential for barristers in the Europe of the twenty first century', unpublished paper.

Hebdige, Dick (1979) *Subculture: The Meaning of Style*, London: Methuen.

Hobson, Dominic (1991) *The Pride of Lucifer: The Unauthorised Biography of Morgan Grenfell*, London: Mandarin.

International Financial Law Review (1988) 'Interjura in Beijing', *International Financial Law Review*, 7: 3.

International Financial Law Review (1989a) 'Stand up and fight!' *International Financial Law Review*, Feb.: 2.

International Financial Law Review (1989b) 'Hands across the Seine', *International Financial Law Review*, March: 3.

International Financial Law Review (1989c) 'Linking hands across the pond: the forging of the O'Melveny/Macfarlanes association', *International Financial Law Review*, July: 6.

International Financial Law Review (1991a) 'Inside: French lawyers denounced', *International Financial Law Review*, Feb.: 2.

International Financial Law Review (1991b) 'EC Commission on the warpath,' *International Financial Law Review*, May: 4.

International Herald Tribune (1991) 'Tokyo warns on trade blocs', *International Herald Tribune*, 1–2 June: 13.
Jamous, H. and B. Peloille (1970) 'Professions or self-perpuating systems? Changes in the French university-hospital system', in J. Jackson (ed.), *Professions and Professionalization*, Cambridge: Cambridge University Press.
Johnson, Christopher (1991) *The Economy under Mrs Thatcher, 1979–1990*, Harmondsworth, Middx: Penguin.
Johnson, Terence (1972) *Professions and Power*, London: Macmillan.
Kerviler, Isabelle de and Peter Standish (1992) 'French accounting law: origins, development and scope', in M. Bromwich and A. Hopwood (eds), *Accounting and the Law*, Hemel Hempstead,: Herts.: Prentice-Hall and ICAEW.
Labaton, Stephen (1991) 'U.S. may ease rules for foreign issuers', *International Herald Tribune*, 6 June: 11.
Law Society's Gazette (1989) 'Lawyers' foreign earnings up 25%', *Law Society's Gazette*, 86: 2.
Lee, Robert G. (1992) 'From profession to business: the rise and rise of the City law firm', *Journal of Law and Society*, 19: 31.
Legge, M. H. (1991) 'Lawyers in the firing line', *International Financial Law Review*, May: 3.
Lewis, Michael (1989) *Liar's Poker: Two Cities, True Greed*, London: Coronet Books.
Lewis, M. K. and J. T. Davies (1987) *Domestic and International Banking*, Oxford: Philip Allan.
Lisagor, Nancy and Frank Lipsius (1988) *A Law unto Itself: The Untold Story of the Law Firm of Sullivan & Cromwell*, New York: Paragon House.
Lord Chancellor's Department (1989) *The Work and Organization of the Legal Profession*, Cm 570, London: HMSO.
MacDonald, Duncan A. (1989) 'Speculations by a customer about the future of large law firms', *Indiana Law Journal*, 64: 593.
MacErlean, Neasa (1992) 'Corporate finance: tactically American', *The Lawyer*, 28 July: 7.
Mann, Michael (1990) *The Rise and Decline of the Nation State*, Cambridge, Mass.: Basil Blackwell.
Marriott, Arthur (1992) 'The multi-national connection', *Law Society's Gazette*, 29 July: 2.
McCullough, Vince (1988) *Economist Pocket Guide to the New City*, London: *Economist*.
McCullough, Vince (1990) 'City lawyers' Big Bang brings new competition,' *Investors Chronicle*, Aug.: 7.
McLachlan, Campbell (1992) 'United Kingdom', in J. Carr (ed.), *Dispatching the Opposition: A Legal Guide to Transnational Litigation*, London: *International Financial Law Review*.
Montagna, Paul (1974) *Certified Public Accounting: A Sociological View of a Profession in Change*, Houston: Scholars Book Co.
Montagna, Paul (1986) 'Accounting rationality and financial legitimation', *Theory and Society*, 15: 103.
Morton, Christina (1988) 'Paris lawyers – preparing to take on the world?', *International Financial Law Review*, Nov.: ii.
Morton, Christina (1989) 'Can German lawyers break the chains?', *International Financial Law Review*, March: i.
Moss, Gabriel (1992) 'Jeux sans frontières? – some problems of international insolvencies', unpublished paper.

Muinzer, M. (1990) 'French law firms look west', *International Financial Law Review*, April: 10.
Neate, F. W. (ed.) (1987) *The Developing Global Securities Market*, London: Graham & Trotman.
Nelson, Robert L. (1988) *Partners with Power: The Social Transformation of the Large Law Firm*, Berkeley, Cal.: University of California Press.
Ohmae, Kenichi (1989) 'Planting for a global harvest', *Harvard Business Review*, 67: 136.
Olgiati, Vittorio (1993) 'Process and policy of legal professionalization in Europe: the deconstruction of normative order', ch. 7 in this volume.
Olgiati, Vittorio, and Valerio Pocar (1988) 'The Italian legal profession: an institutional dilemma', in R. Abel and P. Lewis (eds), *Lawyers in Society: The Civil Law World*, vol. 2, Berkeley, Cal.: University of California Press.
Page, N. (1990), 'Japan: a yen for etiquette', *Legal Business Magazine*, March: 29.
Parsons, Talcott (1954) 'A sociologist looks at the legal profession', in *Essays in Sociological Theory*, Glencoe, Ill.: The Free Press.
Parsons, Talcott (1968) 'Professions', in D. Sills (ed.), *International Encyclopedia of the Social Sciences*, vol. 12, New York: Macmillan & Free Press.
Pashigian, Peter (1977) 'The market for lawyers: the determinants of the demand for and supply of lawyers', *Journal of Law and Economics*, 20: 53.
Perks, R. W. (1992) 'Are you a "professional"? (and would you want to be?)', unpublished paper.
Picciotto, Sol (1988) 'The control of transnational capital and the democratisation of the international state', *Journal of Law and Society*, 15: 58.
Powell, Michael (1988) 'The new legal press', unpublished paper.
Price Waterhouse (1986–7) *Annual Review 1986–7*, London: Price Waterhouse.
Renshall, Michael (1992) 'The role of the accountant in the provision of commercial legal advice: are barristers our allies or our competitors?', unpublished paper.
Reynolds, Michael (1988) 'The directive on recognition of diplomas', *International Financial Law Review*, Aug.: 10.
Rice, Robert (1989) 'London fears of a US invasion dispelled', *The Financial Times*, 22 May: 16.
Rice, Robert (1990) 'Advantages of the Brussels connection', *Financial Times*, 19 Oct.: 33.
Rozen, Miriam (1990) 'Doing the Brussels hustle', *American Lawyer*, Oct.: 76.
Rueschemeyer, Dietrich (1973) *Lawyers and Their Society: A Comparative Study of the Legal Profession in Germany and in the United States*, Cambridge, Mass.: Harvard University Press.
Sander, Richard H., and E. Douglass Williams (1989) 'Why are there so many lawyers? Perspectives on a turbulent market', *Law and Social Inquiry*, 14: 431.
Sassen, Saskia (1991) *The Global City: New York, London, Tokyo*, Princeton, N.J.: Princeton University Press.
Schlesinger, R., H. Baade, M. Damaska and P. Herzog (1988) *Comparative Law*, Mineola, N.Y.: Foundation Press.
Schrage, Michael (1989) 'A Japanese giant rethinks globalization: an interview with Yoshihisa Tabuchi', *Harvard Business Review*, 67: 70.
'Scrivenor' (1989) 'Inns and outs', *The Times*, 7 Nov.: 23.
Silbey, Susan S. (1992) 'Making a place for cultural analyses of law', *Law and Social Inquiry*, 17: 39.
Slinn, Judy (1984) *A History of Freshfields*, London: Freshfields.
Smith, Robert J. (1989a) 'Culture as explanation: neither all nor nothing', *Cornell International Law Journal*, 22: 425.

Smith, Roy C. (1989b) *The Global Bankers*, New York: Plume.
Soeters, Joseph, and Hein Schreuder (1988) 'The interaction between national and organizational cultures in accounting firms', *Accounting, Organizations and Society*, 13: 75.
Sontag, Sherry R. (1989) 'Planning for 1992: tapestry of laws likely to confuse attorneys at first', *National Law Journal*, 15 May: 1.
Stephens, Mark (1985) 'Price Waterhouse's orient express', *Across the Board*, Jul./Aug.: 22.
Stevens, Mark (1981) *The Big Eight*, New York: Simon & Schuster.
Stevens, Mark (1987) *Power of Attorney: The Rise of the Giant Law Firms*, New York: Simon & Schuster.
Stewart, James B. (1983) *The Partners: Inside America's Most Powerful Law Firms*, New York: Simon & Schuster.
Stewart, Patrick (1990) 'Is it the death knell for clubs?', *International Financial Law Review*, Sept.: 24.
Stewart, Patrick (1991) 'Multinational partnerships or Alien III?', *International Financial Law Review*, May: 19.
Stewart, Patrick (1992a) 'Paris: death of an international legal centre?', *International Financial Law Review*, March: 17.
Stewart, Patrick (1992b) 'Berlin: Germany's legal capital', *International Financial Law Review*, April: 14.
Stewart, Patrick (1992c) 'Have Dutch lawyers found the key to European expansion?', *International Financial Law Review*, July: 12.
Stewart Patrick (1992d) 'French lawyers: vive la révolution', *International Financial Law Review*, Sept.: 8.
Stewart, Patrick (1992e) 'Italian lawyers stuck on the sidelines of Europe', *International Financial Law Review*, Nov.: 19.
Sugarman, David (1993) 'Who colonized whom? Historical Reflections on the intersection between law, lawyers and accountants in England', ch. 9 in this volume.
Teubner, Gunther (1992) 'Lex Mercatoria', unpublished paper.
The Times, (1989) 'Competition, fees, partnerships, appointments', *The Times* 20 July: 4.
Walker, David (1989) 'Whitehall brief: dangerous use of discretion', *The Times* 16 Oct.: 8.
Waller, David (1989) 'Arthur Andersen and Price Waterhouse call off talks', *Financial Times*, 27 Sept.: 1.
Wallerstein, Immanuel (1991) *Geopolitics and Geoculture: Essays on the Changing World system*, Cambridge: Cambridge University Press.
Waters, Richard (1989) 'Financial information: where knowledge is power', *Financial Times*, 5 July: v.
Weber, Max (1949) *The Methodology of the Social Sciences*, New York: Free Press.
Weber, Max (1978) *Economy and Society*, Berkeley, Cal.: University of California Press.
Weetman, Pauline, Carol Adams and Sidney Gray (1992) *Issues in International Accounting Harmonisation: The Significance of UK/US Accounting Differences and Implications for the IASC's Comparability Project*, London ACCA.
Whincup, Michael (1992) 'The new Dutch civil code', *New Law Journal*, 4 Sept: 1208.
Williams, Raymond (1976) *Keywords: A Vocabulary of Culture and Society*, London: Fontana.
Wolfe, Tom (1987) *The Bonfire of the Vanities*, New York: Bantam Books.

Zander, Michael (1990) 'The Thatcher government's onslaught on the lawyers: who won?', *International Lawyer*, 24: 753.
Zeff, Stephen A. (1988) 'The business of being a CPA', *Accountancy*, Feb.: 110.