Index

Abbott's *The System of Professions*, 24
Aiet, 67-8, 70-1, 81, 83
Aboriginal Law, 191, 218
academic capital, 4-5, 12
academic habitus, 5, 261
academy as a social field, 3-6
advocacy and expert anthropologist, 153, 166, 169, 216, 233-4, 251, 272-4
agency of the anthropologist, 29-30, 94-7, 170, 237-9, 264-73
Antakirinya (see Western Desert ethnography)
anthropologists in land rights claims, 1, 2 fn 5
anthropologist as expert witness
advocacy, 153, 166, 169, 216, 233-4, 251, 272-4
Beckett in *Mabo*, 67-97
Beckett commentary on Mabo, 90-1
cross-examination, 78-82, 156-8, 149-51, 224-9, 230
deliberative agency, 29-30, 94-7, 170, 237-9, 264-73
Elliott in *De Rose Hill*, 209-41
*Gove Land Rights Case*, 2, 3, 23 fn 30
interpreative indeterminacy, 30, 31, 64, 77, 92, 98, 169-70, 195, 271-2
Kolig in *Rubibi*, 153-8
Kolig commentary on *Rubibi*, 165-6
Sullivan in *Rubibi*, 137-171
Sullivan commentary on *Rubibi*, 167
Sutton in *Yulara*, 243-61
revised model of agency, 273
robust academic model of report writing, 30-1, 222, 259-60, 271-3
triangulation model of anthropological agency, 29-30, 94-7, 170, 237-9, 264-70
anthropology
applied anthropology, 9-11, 274
ethnography-theory divide, 8
institutional capital, 12
metropolitan theorising, 7
postcolonial critique, 12
public profile, 12
pure-applied divide, 9-11
regional specialisation, 6-7
'scientific' capital, 11-12, 258
social field of, 3-13, 258
theory in, 8
applied anthropology, 9-11
Australian Anthropological Society, 10
Australianist anthropology defined, 3 fn 7

Bates, Daisy
position in relation to the academy, 106
West Australian ethnography, 106-8
Western Desert ethnography, 176 fn 4

Beckett, Jeremy
commentary on the *Mabo* hearing, 90-1
cross-examination in *Mabo*, 78-82
discussions with Justice Moynahan, 76-7
evidence-in-chief in *Mabo*, 73-7
Meriam traditional land tenure, 74-5
position within the academy, 48-49
preparation for the *Mabo* hearing, 67-70
Torres Strait research, 49-51

Bennett on applied anthropology, 10

Berndt, Ronald
critique of Tindale, 184-6
*Gove* case involvement, 2
Western Desert ethnography, 183-6

Berndt, Ronald and Catherine
Western Desert ethnography, 183-6

Bischofs, 105

Bourdieu, Pierre
academic capital, 4-5
'force of law', 24
habitus, 4-6, 27-28
hysteresis, 25-26
*Homo Academicus*, 4-6
legal habitus, 22-23
scientific capital, 4-5
social fields, 4
Broome region ethnography
Bates, 106-8
Bischofs, 105
cultural change, 107-8, 115, 120-1, 122-3, 125-9, 134-6
Dalton, 121-3
Elkin, 110-15
Glowczewski, 125-9
Hosokawa, 124-5
landholding groups, 106-10, 111-3, 116-7, 119, 121-2, 125-9, 130-2
Dalton’s Broome–A Multiracial Community, 121-3
Daubert case (Daubert v Merrell Dow), 20-22
deliberative agency of anthropologists, 29-30, 94-7, 170, 237-9, 264-7
De Rose Hill hearing
background to the claim, 173
claimants’ evidence, 211-5
Elliott’s second report, 219-23
Elliott’s cross-examination, 224-9
Full Federal Court appeal, 237
Justice O’Loughlin’s judgment, 231-6
Maddock’s first report, 216-9
Maddock’s second report, 223-4
Maddock’s cross-examination, 230
Peter De Rose’s evidence-in-chief, 212-14
Peter De Rose’s cross-examination, 214-5
research for the claim, 209-10
Djugun (see Broome region ethnography)

Elkin, A P
Broome region ethnography, 110-15
position in the academy, 110
Western Desert ethnography, 176-9
ethnography-theory divide, 8
expert witness
advocacy, 153, 166, 169, 216, 233-4, 251, 272-4
Australian jurisprudence, 21-22
bias, 233-4, 250-1
conference of experts, 160
cross-examination techniques, 78-9, 224-9, 230
Daubert case, 20-22
disputes between experts, 171
field of expertise, 248
form of expert report, 244-6
‘hot-tubbing’, 160
‘junk science’ debate, 20 fn 28
research for litigation, 20, 169, 249-50
scientific expertise, 20
U.S. jurisprudence, 20-22
Index

fact-finding, 18-2
gestals, 23
Fardon, 6
Frank’s Courts on Trial, 18-20
gestalt formation, 18, 23-24
Glowczewski, Barbara
academic background, 125
Broome region ethnography, 125-9
Gove Land Rights Case, 2, 3, 23 fn 30
Gumbert, 2

Haddon, A C, 35-39
Hamilton, Annette
Western Desert ethnography, 192-3
higher education as a social field, 3-6
Hindmarsh Island affair, 12, 250-1
Hoebel, 17
horde, 108-17, 128, 131, 132, 146, 148,
158, 177-81, 185-9, 196, 200-2, 233,
266-7, 277
Hosokawa, 124-5
‘hot-tubbing’, 160
hysteresis, 25-26

independence of expert witness, 76-7,
81-2, 94-5, 97-8, 167-70, 227, 234,
240, 250-2, 259, 265, 271-2
institutional capital, 12
interaction of law and anthropology
collusion, 24
conclusions, 277-9
competition, 24-25
gestalt formation, 23-24
hysteresis, 25-26
swallowing, 24
interpretive indeterminacy, 30, 31, 64,
77, 92, 98, 169-70, 195, 271-2

Jugan (see Broome region ethnography)
‘junk science’ debate, 20 fn 28
juridical social field, 13-20
agency of judges, 274-6
attitude to experts, 20-2
judicial bias, 276
discussions with experts, 76-7, 159-62
fact-finding, 18-20
informal dimensions, 15
judgment writing, 19, 98
law-finding, 16-7
legal shadowlands, 15

Karadjeri, 115-8
Kolig, Erich
commentary on Rubibi, 165-6
cross-examination in Rubibi, 156-8
examination-in-chief in Rubibi, 153-4
interaction with Justice Merkel, 160-2
position in the social field, 151-3

landholding groups, 40-3, 51-2, 57-8, 61-6,
106-10, 111-3, 116-7, 119, 121-2,
125-9
land rights era defined, 1 fn 3
language group, 132, 187, 267
laws and customs relating to land, 43-5,
52-3, 58-60, 61-6
law as an autopoietic system, 24
legal anthropology, 16
legal habitus, 22-23, 261
legal pluralism, 17
local organisation debate defined, 7 fn 10
Luhmann, 24

Mabo, Eddie, 35, 68, 70-2, 81, 83-5, 90-1
Mabo decision, 14

Mabo hearing of the facts
Beckett’s evidence-in-chief, 73-7
Beckett’s commentary, 90-1
Beckett’s cross-examination, 78-82
David Passi’s evidence, 72
Determination of the Facts, 83-90
Eddie Mabo’s evidence, 70-2
final submissions, 82-3
Keon-Cohen’s commentary, 93
plaintiffs’ evidence, 70-2
preparation for the hearing, 67-70
Sharp’s commentary, 91-2

Mabo statement of claim, 67-8
Maddock, Ken
conclusions from De Rose Hill, 238-40
cross-examination in De Rose Hill, 230
first report in De Rose Hill, 216-7
judge’s assessment in De Rose Hill, 234-5
position in the social field, 216-7
second report in De Rose Hill, 223-4
Malo’s laws, 58-9, 72, 76, 97
Malo Bomai ritual, 37, 42, 44-5, 64-5
Mantziaris and Martin Native Title Corporations, 3, 132, 204, 274, 277
Mer (see Murray Island ethnography)
Merkel, Justice
interventions with experts, 159-62
judgment in Rubibi, 162-165
position in the social field, 158-9
Meriam (see Murray Island ethnography)
Merlin, 2
methodology, 30-3, 263-4
metropolitan theorising, 7
midedi ritual, 118, 120, 122, 132
modern law, 13-14, 97, 276
Morton, John, 257, 259, 261
Moynahan, Justice
discussions with Beckett in Mabo, 76-7
Mabo Determination of Facts, 83-9, 98-9
Murray Island chronology, 36
Murray Island ethnography
Aiet, 67-8, 70-1, 81, 83
Beckett, 48-54, 61-6
Cambridge Expedition, 35-47, 61-6
council politics, 51
cultural change, 46-47, 53-54, 60-1, 61-6
Haddon, 35-9, 61-6
Kitoaji, 55-6
Laade, 55
landholding groups, 40-3, 51-2, 57-8, 61-6
laws and customs, 43-5, 52-3, 58-60, 61-6
Malo’s laws, 58-9
Malo Bomai ritual, 37, 42, 44-5, 64-5
Rivers, 40-3
Sharp, 56-61, 61-6
traditional land tenure, 43-5, 52-3, 58-60, 61-6
Wilkin, 43-44
Myers, Fred
autonomy and relatedness as principles, 96
position in the social field, 194
Western Desert ethnography, 194-9
native title law
‘body of traditional laws and customs’, 251-4
‘traditional laws and customs’, 17, 218, 221
Mabo decision, 14
normative system, 252
‘society’, 14-6, 30, 271
Yorta Yorta case, 14
native title era defined, 1 fn 2
Niblett, 2
Northern Territory land rights claims, 1
O’Loughlin, Justice
position in the social field, 230-1
judgment in De Rose Hill, 231-6
Ortner, 8
Piddington, Ralph
Karadjeri ethnography, 115-8
position in the academy, 115
relations with Elkin, 116-7
phantom experts, 240-1, 255, 289
Pitjantjatjara (see Western Desert ethnography)
postcolonial critique of anthropology, 12
primitive law, 16
projecting independence as expert witness, 76-7, 81-2, 94-5, 97-8, 167-
70, 227, 234, 240, 250-2, 259, 265, 271-2

Radcliffe-Brown, A R
horde theory, 108-10, 266-7
position in the academy, 108-9
rai spirits, 113, 128, 132, 139, 141, 159
regional specialisation in anthropology, 6-7
Reports of the Cambridge Anthropological Expedition to the Torres Straits, 35-39, 61-66
research for litigation (also see ‘junk science’), 20, 169, 249-50
ritual, 107, 113-5, 118, 119-20, 122, 125, 132-4
Rivers, W H R, 40-43
robust academic model of anthropology report writing, 30-1, 222, 259-60, 271-3
Rubibi (see Broome region ethnography)
Rubibi hearing
claimants’ evidence, 141-46
Justice Merkel’s judgment, 162-165
Kolig’s commentary, 165-6
Kolig’s evidence and cross-examination, 151-8
Leregon evidence, 144-5
Patrick Dodson’s evidence, 142
Sullivan’s commentary, 167
Sullivan’s evidence-in-chief, 146-9
Sullivan’s cross-examination, 149-51

Sansom, Basil, 243
sceptical critique of fact-finding, 18-20
‘scientific’ capital, 4-5, 11-12
scientific expertise, 20
‘junk science’ debate, 20 fn 28
Daubert case, 20-22
Sharp, Nonie
commentary on the Mabo hearing, 91-2
Murray Island ethnography, 56-61
position within the academy, 56
social field of anthropology, 3-13, 258, 279-80
social field of the judiciary, 13-20, 274-6, 279-80
Stanner, W E H, 2, 12
Strehlow, T G H
position in the social field, 186
Western Desert ethnography, 187-8
Sullivan, Patrick
commentary on Rubibi, 167
cross-examination in Rubibi, 149-51
evidence-in-chief in Rubibi, 146-9
position in the social field, 137
research for Rubibi, 137-40
Sutton, Peter
background to the Yulara case, 243-6
challenge to form of report in Yulara, 244-6
challenge to Sutton’s expertise in Yulara, 248-52
Justice Sackville’s judgment in Yulara, 246-7
swallowing of anthropology by law, 24
Tamanaha, 17
Tindale, Norman
position in the social field, 180
response to Berndt’s critique, 185-6
tribal map of the Broome region, 123-4
public persona, 259
Western Desert ethnography, 181-3
Tonkinson, Robert
position in the social field, 188-9
Western Desert ethnography, 189-91
traditional land tenure, 43-5, 52-3, 58-60, 61-6, 74-5, 107, 113-15, 123-4, 130-2, 147-9
triangulation model of anthropological agency, 29-30, 94-7, 170, 237-9, 264-70
tribe
Berndt’s Western Desert critique, 184-6
Elkin’s definition of, 186 fn 16
Tindale’s view, 181-2
Vachon, Daniel, 229
van Willigen, 9 fn 13

Williams, Nancy, 2, 3
Willis, Jon, 229, 248-9

Western Desert ethnography
Berndts, 183-6
cultural change, 179, 182-3, 188, 191, 197-9, 205-8
Elkin, 176-9
Hamilton, 192-93
kuranitja (spirit essence), 229, 249
landowning groups, 177-8, 181-2, 183-6, 189-91, 194-97, 200-3
Myers, 194-9
nguraritja (traditional owner), 211
Strehlow, 186-8
Tindale, 180-3
Tonkinson, 188-91
traditional land tenure, 178-9, 183-6, 187, 191, 194-97, 203-5
Woenne-Green, 215-6

Woenne-Green, Susan
anthropologist's report for De Rose Hill, 215-6
De Rose Hill claim research, 209-10

Worms, Father Ernest
Broome region ethnography, 118-121
relations with the academy, 118

Yankunytjatjara (see Western Desert ethnography)
Yaruwu (see Broome region ethnography)
Yulara hearing
background, 243-6
challenge to form of report, 244-6
challenge to Sutton's expertise, 248-52
Justice Sackville's judgment, 246-7
Justice Sackville on the pre-contact era, 254-9