

Australia as a Nation: Australia's System of Government and Citizenship

Year 6 | Student | Post-Visit Resource

Points to Think About After Your Visit to the Francis Burt Law Education Programme (FBLEP)





Review

Review the points on the right and your previous answers with a partner or in a small group and then discuss them with your class.

Tasks



Read each of the following statements and circle True or False.

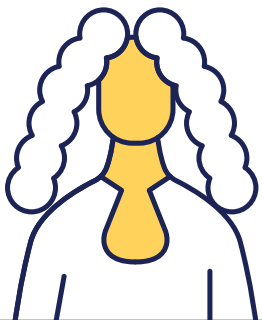
		
1. The accused person must prove to the court that s/he is not guilty of the crime.	True	False
2. Jury duty is a responsibility of everyone who can vote in Western Australia except in special situations and except for people in special types of jobs.	True	False
3. The British colonists lived under customary Aboriginal lore (law) in the early days of the colony.	True	False
4. The law for the Queen and Prime Minister is different to the law for everyone else.	True	False
5. The government can remove a judge from his/her position at any time.	True	False
6. The Australian Constitution describes what laws and courts for which the Federal Government is responsible and what laws and courts for which the State Governments are responsible.	True	False
7. If you are not born in Australia you cannot become an Australian citizen.	True	False
8. One privilege of being an Australian citizen is that you do not have to vote in government elections.	True	False
9. Captain James Stirling established British law in the Swan River Colony (now known as Western Australia) when he proclaimed the Swan River Colony on 26 January 1788.	True	False
10. The three main courts in Western Australia that deal with civil and criminal matters are the Supreme Court of Western Australia, the District Court of Western Australia and the Magistrates Court of Western Australia.	True	False

Rule of Law

Tasks

Read each of the following statements and circle True or False.

		
1. Everyone is equal in the eyes of the law.	True	False
2. The rule of law creates responsibilities for both the government and citizens in WA	True	False
3. The rule of law makes sure that the government has all the legal power.	True	False



Australian Citizenship

Tasks

In April 2017 the Commonwealth Government proposed changes to the requirements for becoming an Australian citizen. The new legislation was introduced to Parliament in June however it was blocked in the Senate and the amendments have now been scrapped. The changes proposed included the following:

- › the person must have lived in Australia for 4 years immediately before applying to become a citizen,
- › the person must pass an English language test involving reading, writing, listening and speaking,
- › the citizenship test was to be more comprehensive and include new questions to assess the person's understanding and commitment to shared values and responsibilities,
- › the person must have shown how they have become a part of their community,
- › if a person failed the test they would only have the opportunity to re-sit the test twice,
- › anyone who cheated during the citizenship test would automatically fail.

1. Do you think the proposed changes to the requirements for becoming an Australian citizen would have been fair to new citizens? Give reasons for your view.

2. Do you think the proposed changes reflected Australia's key values such as freedom of speech, freedom of association, freedom of religion, equal rights for men and women, tolerance, fairness and mutual respect?

3. If changes are to be made to the requirements for becoming an Australian citizen in the future what would you like to see included or excluded?

4. Test your understanding of Australian citizenship by taking the [the Australian citizenship practice test](#).

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5. Choose one of the [people](#) who have shared their personal story about becoming an Australian citizen and watch their video. Write down a short summary about that person to share with the class.

Different Types of Laws

In Australia generally speaking there are two main kinds of laws; State (or Territory) law and Commonwealth law (sometimes referred to as Federal legislation). The Constitution determines which areas the Commonwealth has power to make laws.

The Commonwealth can make laws on matters regarding defence, immigration, taxation, insurance, marriage and divorce, international and interstate trade, foreign affairs, currency, fisheries, postal and telecommunications and pensions.

The States are able to make laws that are enforced within their State such as for roads, railways, hospitals, schools, police, prisons, forests, mining, agriculture, public transport and local government. Generally, Commonwealth laws cover anybody in Australia and the State laws (or Territory laws) only apply to people in that particular State or Territory.

Wherever there is a conflict or clash between the laws then the Commonwealth law will always apply or over-ride the State or Territory law.

How Laws are Made - State and Territory Laws

Watch

Watch the [From a Bill to a Law](#) video.

Task

Use the hyperlink that follows to the [Parliament of WA](#) website to research how Western Australian State laws are made and complete the tasks below.

1. Who makes Western Australian State laws?

2. How many Houses of the Western Australian Parliament must approve a bill?

3. Who signs on behalf of the Queen before a Western Australian State bill becomes an Act of Parliament, i.e. a new law?

Note

Once an Act of Parliament has been signed on behalf of the Queen it becomes a Statute or Legislation and is officially a law.

Additional Resources

[The Three Levels of Law Making](#)



Court Personnel Challenge

Instructions

The Court Personnel Challenge is a card game.

1. Cut out all nine cards on the right.
2. Place the cards face down on the desk.
3. Each person chooses a card and must try to describe the duties of the court personnel on the card without giving the name of the court personnel.
4. The challenge for the other students is to guess which of the court personnel is being described.
5. If the other students can guess which of the court personnel is being described the person reading will keep the card. Then another student has his/her turn.
6. If the other students cannot guess which of the court personnel is being described the person reading puts the card back. Then another student has his/her turn.
7. Keep going until you have been able to describe the duties of all of the court personnel on the cards.

General Questions

1. Who do you think has the hardest job in a court room? Why?

2. Which job would you like to have if you worked in a court room? Why?



Jury



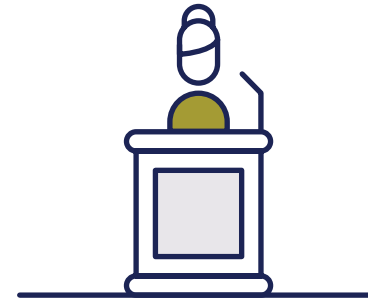
Judge's Associate



Usher



Judge



Witness



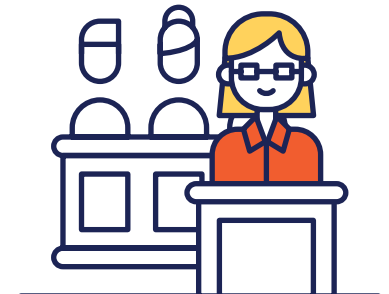
Defence Counsel



State Counsel



Accused



Jury Foreperson

Impact of British Law on Aboriginal People in Western Australia

Instructions

As you now know the establishment of British Law had a big impact on Aboriginal Peoples in WA.

Click on [Kaartdijin Noongar – Sharing Noongar Culture website - WA list of legislation](#) and read the list of WA legislation that applied to Aboriginal people.

Tasks

Western Australian Legislation that applied to Aboriginal People.

Year	WA Legislation	Brief Description
	Western Australian Act (UK)	Gave effect to the 'settlement' of Western Australia on 'wild and unoccupied lands'. In his despatches to the British government, Governor James Stirling would refer to the physical occupation of land as an invasion. ¹
1841	An Act to allow the Aboriginal Natives of Western Australia to give information and evidence without the sanction of an oath 1841	Evidence admitted in court that would allow Aboriginal people to give evidence against each other and Europeans. This part was initially attached to summary punishment provisions that aimed to prosecute Aboriginal people for the theft of settlers' property. It was taken out of the Act on the insistence of the British government. ²
1874	The Game Act	Authorised Aboriginal people to kill native animals for food. ³
	The Aborigines Protection Act	Established Aborigines Protection Board (APB). Officials including Chief Protector had increased power to regulate the employment and movement of Aboriginal people. ⁴
	The Aborigines Protection Act	Governor had power to declare or confine Aboriginal people on reserves, or remove them. ⁵
1907	The Electoral Act	Prohibited any 'Aboriginal native' from enrolling as an elector, or if enrolled, from voting in an election. ⁶
1950	The Fauna Protection Act	'Natives' could take fauna from Crown land (or other land with permission) for food for sustenance. ⁷
1962	Commonwealth Electoral Act	Aboriginal people over 21 achieved right to enrol (not compulsory) and vote at Federal elections. At this point, Western Australia passed laws that meant that Aboriginal people could vote for the first time. ⁸
	The Commonwealth Constitution Amendment Act	Referendum to change section 51(29) to authorise the Commonwealth parliament to make special laws relating to Aboriginal people and remove s127 of the Constitution so that Aboriginal people could be counted in the census.
1972	Aboriginal Heritage Act	First Act that focused on Aboriginal cultural heritage. Aim is protection of Heritage sites of significance to persons of Aboriginal descent. ⁹
	The Native Title Act (Cth)	Enacted following the Mabo decision in 1992, which recognised that Aboriginal people had native title rights that survived the assertion of British sovereignty. ¹⁰

1 Kaartdijin Noongar – Noongar Knowledge, Sharing Noongar Culture, South West Aboriginal Land and Sea Council, List of WA Legislation <http://www.noongarculture.org.au/list-of-wa-legislation>.

2 Ibid.

3 Ibid.

4 Ibid.

5 Ibid.

6 Ibid.

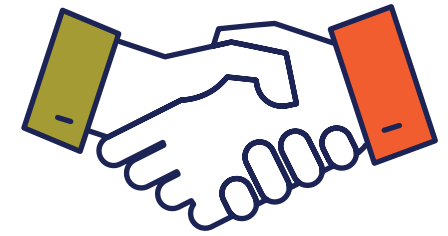
7 Ibid.

8 Ibid.

9 Ibid.

10 Ibid.

Impact of British Law on Aboriginal People in Western Australia



? Discussion Questions

1. In 1841 Aboriginal people were given the right to give evidence without an oath in Western Australian courts. What does this tell us about what happened to Aboriginal people in Western Australian courts between 1829-1841?

2. In 1874 the Game Act allowed Aboriginal people to take native animals for food. If you are an Aboriginal person, what do you think your ancestors thought about this new law? Why? If you are not an Aboriginal person, what do you think the Aboriginal people at that time thought about this new law? Why?

3. The 1905 Aborigines Act had a devastating effect on Aboriginal Peoples in WA. At that time Aboriginal Peoples were thought of as a 'dying race'. Despite all of the hardships and injustices that Aboriginal Peoples have experienced since colonisation the Aboriginal Peoples have survived and are very much a living race. What does this tell us about Aboriginal Peoples?

4. In 1962 all Aboriginal people over 21 could vote if they wanted to. Are you surprised that it took so long for Aboriginal people to given the right to vote? Why?

5. Which Western Australian legislation in the timeline above most surprised, interested or shocked you? Why?

Mock Trial

? Questions

1. If your class did the mock trial in the Old Court House of The State of Western Australia v **Jamie Brown**:

a. What was Jamie Brown charged with?

b. Was Jamie Brown found guilty or not guilty by the jury in your trial?

c. Do you agree or disagree with the jury's verdict? Why?

2. If your class did the mock trial in the Old Court House of The State of Western Australia v Captain **James Hook**:

a. What was Captain Hook charged with?

b. Was Captain Hook found guilty or not guilty by the jury in your trial?

c. Do you agree or disagree with the jury's verdict? Why?



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Appendix 1

Australian Citizenship

Tasks

Choose an Australian citizen that reflects the shared values of Australian citizenship.

Choose either:

- › an Aboriginal person;
- › a non-Aboriginal person; or
- › a person born in another country that became an Australian citizen.

Prepare a multi-modal presentation which includes:

- › the name of the person;
- › a brief outline of some background information about the person;
- › an example of two or more Australian values that have been demonstrated by the person;
- › two interesting points about the person;
- › an explanation of why you chose that person.

Examples of some citizens you may wish to consider:

- › [2018 Western Australian of the Year Award Winners](#)
- › [2017 Western Australian of the Year Award Winners](#)



Appendix 2

Australia's System of Government

Separation of Powers

The Australian Constitution is the set of rules by which Australia is run. The first Three Chapters of the Constitution define three largely separate arms - the Legislature (Parliament), the Executive and the Judiciary - and the roles they play in Australian governance. The power to make and manage federal law is divided between these three arms. This division is based on the principle of the 'separation of powers'. Under this principle the power to govern should be distributed between the Legislature, the Executive and the Judiciary to avoid one group having all the power. Each arm should work within defined areas of responsibility so that each keeps a check on the actions of the others.¹

¹ Parliamentary Education Office website:
www.peo.gov.au/learning/fact-sheets/separation-of-powers.html

Tasks

Prepare a multi-modal presentation on the separation of powers under Australia's system of government. Your presentation should include:

1. An explanation of the role of the Legislature
 - › **Name one person from this arm of government and list briefly what her/his job is.**
2. An explanation of the role of the Executive
 - › **Name one person from this arm of government and list briefly what her/his job is.**
3. An explanation of the role of the Judiciary
 - › **Name one person from this arm of government and list briefly what her/his job is.**
4. Why do we have separation of powers?
5. Which role would you like to have if you had a choice and why?

Useful websites:

- › [**Parliamentary Education Office – Members of Parliament**](#)
- › [**Parliamentary Education Office – Separation of Powers**](#)
- › [**Rule of Law Institute of Australia**](#)
- › [**Supreme Court of Western Australia**](#)

