

Francis Burt Law Education Programme

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

Year 6 | Teachers | 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.

Kahoots Quiz

[Year 6 Kahoots Quiz](#)

Tasks



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

	✓	✗
<p>1. The accused person must prove to the court that s/he is not guilty of the crime.</p> <p>➤ A very important legal principle is the burden of proof. That is, the onus/responsibility is on the State to prove that the accused is guilty. The State must prove the accused person's guilt beyond reasonable doubt. That is the standard of proof. Another important legal principle is the presumption of innocence, i.e. the accused is always presumed to be innocent until proven guilty.</p>	True	False
<p>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.</p> <p>➤ Significant amendments were made to the Juries Act WA in 2011. Those amendments included deferring jury duty for six months on request, increasing the minimum fine to \$800 for failing to respond to a jury duty summons and reducing the number of occupations which make a person ineligible for jury duty.</p>	True	False
<p>3. The British colonists lived under customary Aboriginal lore (law) in the early days of the colony.</p> <p>➤ The British legal system was brought to WA in 1829. British law from that point onwards applied to everyone in WA and traditional Aboriginal lore (law) was not recognised by the British colonists. It is important to note the resulting clash of laws which occurred and the significant problems and injustices that this created for Aboriginal Peoples. Also important to acknowledge is the fact that traditional Aboriginal lore still exists today and the clash of legal systems is an on-going issue.</p>	True	False
<p>4. The law for the Queen and Prime Minister is different to the law for everyone else.</p> <p>➤ An essential element of our legal system is that everyone must be treated equally and that everyone is answerable before the law.</p>	True	False
<p>5. The government can remove a judge from his/her position at any time.</p> <p>➤ A judge can only be removed from his/her position if s/he breaks the law and a possible sentence is imprisonment. When a judge reaches the age of 70 s/he must step down. This system is referred to as security of tenure. Security of tenure is important for judges as it helps to ensure that they act without fear or favour in their role.</p>	True	False
<p>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.</p> <p>➤ The Australian Constitution is the legal framework for governance in Australia.</p>	True	False

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

Tasks

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

		
7. If you are not born in Australia you cannot become an Australian citizen. > <i>There are a number of ways a person can become an Australian citizen including if one of their parents is an Australian citizen, if they have been adopted by an Australian citizen, if their partner or spouse is an Australian citizen, if they are a migrant with permanent residence or if they are a refugee.</i>	True	False
8. One privilege of being an Australian citizen is that you do not have to vote in government elections. > <i>Every Australian citizen over the age of 18 years must vote in government elections.</i>	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. > <i>Captain James Stirling claimed the Swan River Colony as part of the British Colony on 18 June 1829. It was Captain James Cook who arrived with the First Fleet of British ships in New South Wales on 26 January 1788.</i>	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. > <i>There are many other courts in Western Australia but they don't deal with both civil and criminal matters, for example Federal Court of Australia, Children's Court of Western Australia, Coroner's Court.</i>	True	False

Rule of Law

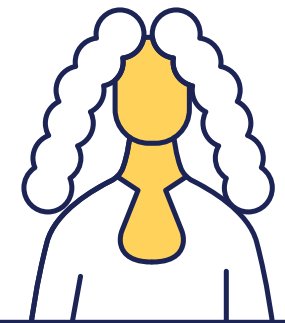


Tasks

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



<p>1. Everyone is equal in the eyes of the law.</p> <p>› Everyone is equal in the eyes of the law and therefore everyone is treated equally and everyone faces the same penalties if found guilty. Nobody is above the law not even the Queen or the Prime Minister.</p>	<p>True</p>	<p>False</p>
<p>2. The rule of law creates responsibilities for both the government and citizens in WA</p> <p>› Everyone has responsibilities under the rule of law as everyone is accountable/ answerable before the law. Also worth recognising is the fact that the rule of law creates rights.</p> <p>› It would be interesting to brainstorm with the students what rights and responsibilities are created for the government and citizens under the rule of law.</p> <p>› <u>The Australian Government: Department of Immigration and Border Protection website</u> has information on rights and responsibilities in Australia as hyperlinked below.</p> <p>› Other useful websites include: <u>Responsibilities and privileges of Australian citizenship</u> <u>Australia's democratic beliefs, rights and liberties</u></p>	<p>True</p>	<p>False</p>
<p>3. The rule of law makes sure that the government has all the legal power.</p> <p>› The rule of laws shares legal power between the Parliament, the Executive and the Judiciary, i.e. the separation of powers. This ensures that none of these arms of government is too powerful and prevents abuse of the law.</p>	<p>True</p>	<p>False</p>



Australian Citizenship

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.

Tasks

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.
 - › **Answers will vary – all efforts should be encouraged**
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?
 - › **Australia's key values include freedom of religion, freedom of speech, freedom of association, equal rights for men and women, a commitment to the Rule of Law, Parliamentary democracy, tolerance, fairness, mutual respect, compassion for those in need, equal opportunity for everyone regardless of their race, religion or background. It is likely that students will question whether the changes reflected many of the key values. For example, fairness, mutual respect, compassion for those in need, a commitment to the Rule of Law, equal opportunity etc. Encourage all answers that are supported by reasoning.**
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?
 - › **Answers will vary depending on each individual's experience.**
4. Test your understanding of Australian citizenship by taking the [the Australian citizenship practice test](#).
 - › **There are 20 multiple choice questions. The number of correct answers is given at the end, but which questions were answered incorrectly is not shown.**

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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.
 - › **The summaries will vary depending on the person chosen. There are 7 to choose from including Terri Irwin (Australia Zoo), Joany (Paralympian) and Sachi (Masterchef Australia 2018 Winner).**

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?
 - › **The Western Australian State Government makes Western Australian State Laws. The Western Australian Parliament is made up of the Legislative Assembly and the Legislative Council.**
2. How many Houses of the Western Australian Parliament must approve a bill?
 - › **Two; both the Legislative Assembly and the Legislative Council must approve a bill for Royal assent/approval to be given.**
3. Who signs on behalf of the Queen before a Western Australian State bill becomes an Act of Parliament, i.e. a new law?
 - › **The Governor of Western Australia.**

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](#)

Teachers may like to explore the three levels of government and their responsibilities with the students.



Court Personnel Challenge

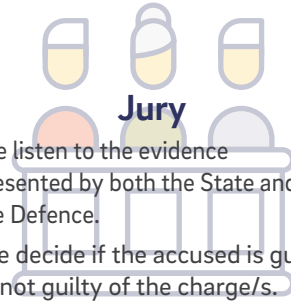
Instructions

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?
 > **All answers should be accepted. Encourage the students give reasons for their answers.**
2. Which job would you like to have if you worked in a court room? Why?
 > **All answers should be accepted. Encourage the students give reasons for their answers.**



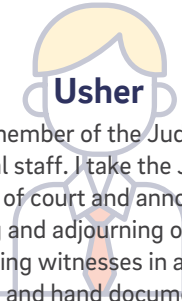
Jury

We listen to the evidence presented by both the State and the Defence.
 We decide if the accused is guilty or not guilty of the charge/s.
 To find the accused guilty, we must be satisfied beyond a reasonable doubt.



Judge's Associate

I am a member of the Judge's personal staff and I am the Judge's personal legal assistant.



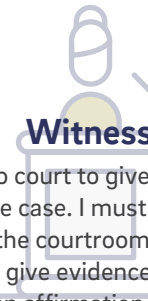
Usher

I am a member of the Judge's personal staff. I take the Judge in and out of court and announce the opening and adjourning of court. I also bring witnesses in and out of court and hand documents and exhibits between various people such as the lawyers, the witnesses and the Associate.



Judge

I am in charge of the court and I interpret the law. I make sure there is a fair trial. I give the jury direction and explain the law. If the accused is guilty, I give them an appropriate sentence. In other words, I give them a penalty for breaking the law.



Witness

I come to court to give evidence about the case. I must wait outside the courtroom until I am called to give evidence. I take an oath or an affirmation before I give my evidence and I agree to tell the truth, the whole truth and nothing but the truth.



Defence Counsel

My job is to represent the accused. I do not have to prove that the accused is innocent. I try to create doubt that the accused is guilty.

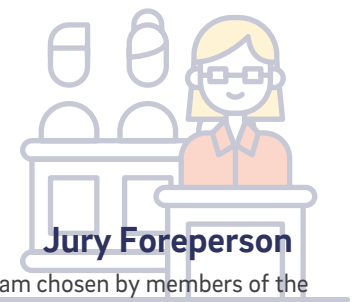


State Counsel

I represent the State of Western Australia and I speak for the State. I have to prove that the accused is guilty. Not only do I have to prove guilt, I must prove it beyond reasonable doubt.

Accused

The police have charged me with breaking the law. I must plead either guilty or not guilty to the charges. If I plead guilty I will be sentenced. If I plead not guilty there will be a trial. I do not have to give evidence, but can if I want to. In the Supreme and District Courts I will **always** be in the dock with a security officer nearby. I am always thought to be innocent until proven guilty.



Jury Foreperson

I am chosen by members of the jury to be the spokesperson. My role is to ask the judge questions on behalf of members of the jury and I announce the verdict in court.

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
1829	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
1886	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
1905	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
1967	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
1992	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?
 - It tells us that before 1841 Aboriginal people were not allowed to give evidence in WA courts. As a result it would have been impossible for an Aboriginal person to have a fair hearing of the alleged matter. Unfortunately this resulted in injustice after injustice occurring when allegations were heard involving Aboriginal people.
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?
 - **Aboriginal person's perspective:** This new law would have seemed silly to Aboriginal people, as their laws about which animals could be taken for food, where they could be taken from and when they could be hunted has been handed down to them by their ancestors over many thousands of years. The idea that the Colonists could seek to change these laws or restrict access to food sources within Aboriginal peoples traditional lands and waters would have seemed absurd to them.
Non-Aboriginal person's perspective: If the Aboriginal people of the time were aware of this new law I am sure that they would have found it perplexing as this was their country and it was their land, i.e. Who were the British to tell them that they could hunt Kangaroos and other native Australian animals? It must have seemed unbelievable to the Aboriginal people at the time that the British could just come to WA, take their country away from them and tell them what they could and could not do.
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?
 - It tells us that Aboriginal Peoples are very strong and determined even in extreme circumstances. The fact that the culture and traditions of Aboriginal Peoples have survived despite all of the hardships and injustices is a credit to them and their ancestors.
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 be given the right to vote? Why?
 - Some students may not be surprised that it took so long for all Aboriginal people in WA over 21 to be given the right to vote considering the way Aboriginal people in WA had been treated by the British colonists from 1829.
Some students may be surprised that it took so long for all Aboriginal people in WA over 21 to be given the right to vote as this is viewed by most people in our community as a basic right afforded to every West Australian. To think that it took so long, 133 years (1829-1962), for Aboriginal people in WA over 21 to be given this basic right is quite shocking and reminds us of the impact of colonisation on Aboriginal Peoples in WA.
5. Which Western Australian legislation in the timeline above most surprised, interested or shocked you? Why?
 - Students are likely to have different answers to this question. Encourage them to support their answer with reasons as to why that was the most surprising, interesting or shocking WA legislation in the timeline.
The [Kaartdijin Noongar – Sharing Noongar Culture website](#) has a wealth of resources on Noongar culture, history and the impact of colonisation. Those resources include oral histories including transcripts and video files.

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?

> **Criminal damage by fire (Arson)**

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

> **Answers will vary.**

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

> **Answers will vary.**

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?

> **Kidnapping Jack and Maggie Banning, Peter Pan's children.**

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

> **Answers will vary.**

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

> **Answers will vary.**

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You may wish to use photos taken by FBLEP during the group's mock trial at the Old Court House and the software [Comic Life](#) to discuss the various roles in the court room and the trial process



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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
- › 2018 Western Australian of the Year - Dr Tracy Westerman, a Njamal woman from the Pilbara;
- › 2018 Western Australian Senior Australian of the Year – Kathleen Mazzella OAM, women’s health champion;
- › 2018 Western Australian Young Australian of the Year – Samantha Kerr, Matilda’s soccer player;
- › 2018 Western Australian Local Hero – Councillor Peter Lyndon-James, an addiction treatment specialist.
- › 2017 Western Australian of the Year Award Winners
- › 2017 Western Australian of the Year – Andrew Forrest, Fortescue Metals Group;
- › 2017 Western Australian Senior Australian of the Year – Peter Kenyon, community enthusiast and social entrepreneur;
- › 2017 Western Australian of the Year – Abdullahl Allm, a refugee from Somalia who came to Australia when he was 5 years old;
- › 2017 Western Australian Local Hero – June Oscar AO, a Bunuba woman from Fitzroy Crossing who is an anti-alcohol activist.

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

2 Supreme Court website: http://www.supremecourt.wa.gov.au/S/separation_of_powers.aspx?uid=1910-3759-9835-2395



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
 - › **Parliament (also referred to as the Legislature) is made up of the Queen (represented by the Governor-General), the Senate and the House of Representatives. The Legislature make the laws.**
 - › **Name one person from this arm of government and list briefly what her/his job is.**
 - › **Legislature: Member of Parliament – debate and vote on bills (proposed laws) in Parliament, represent the views of the people in their electorate, work on parliamentary committees to examine important issues and discuss issues of national and international importance.**
2. An explanation of the role of the Executive
 - › **The Executive is made up of the Queen (represented by the Governor-General), the Senate and the House of Representatives. The Executive puts the laws into operation.**
 - › **Name one person from this arm of government and list briefly what her/his job is.**
 - › **Executive:**
 - › **Governor-General – the Governor has certain powers to act on behalf of the Queen. The Governor gives "assent" to any bill passed by the Parliament before it becomes law.**
 - › **Prime Minister – the leader of the Australian Government and the leader of the nation. The Prime Minister is the most powerful person in Parliament. They have many tasks including chairing meetings in which government discusses policies and examines bills, selecting members of the government to be ministers, acting as the chief government spokesperson, representing Australia overseas and advising the Governor-General about important issues.**

› Government Ministers

3. An explanation of the role of the Judiciary
 - › **The Judiciary is made up of the High Court and other federal courts. The Judiciary interprets the law and makes judgments about the law.**
 - › **Name one person from this arm of government and list briefly what her/his job is.**
 - › **Judiciary: Judge – the Judge presides over the court and ensures that proceedings are conducted according to the law. Judges make decisions about cases according to law. If someone pleads guilty or is found guilty at trial the judge gives a sentence (penalty) to the offender**
4. Why do we have separation of powers?
 - › **The hallmark of democracy is the independence of the judiciary and the adherence to the rule of law. The rule of law is the system where everyone is entitled to have a matter heard by an independent and impartial court or tribunal and all persons are subject to the rule of law. A judiciary which exists merely to do a government's bidding or to implement government policy provides no guarantee of liberty. Judges are bound by their oath and affirmation "to do right to all manner of people according to the laws and usages of the State without fear or favour, affection or ill will".²**
5. Which role would you like to have if you had a choice and why?
 - › **Answers will vary and all efforts should be encouraged**

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](#)

There is also a great interactive activity on the [Parliamentary Education Office's website](#) called "PA for an MP" which covers all the items in a busy MP's diary.