

To: Mary L. Larsgaard, chair
ALA/ALCTS/CCS Committee on Cataloging: Description and Access

From: Kathy Winzer, American Association of Law Librarians liaison

Re: Special rules for certain legal publications in AACR2 Chapter 21

Introduction

Law catalogers appreciate the opportunity to contribute to the development of part two of the new *Resource Description and Access* (RDA). We understand that this review is intended to increase consistency, eliminate redundancy, and generalize rules whenever possible. We have identified one area in particular where major changes would make the rules easier to apply. We are proposing a major change for *bilateral and multilateral treaties*. Other areas of the rules could benefit from simplified wording, a different layout, using tables, decision trees, or other structuring that would enable catalogers to better identify and implement the rules. While there was insufficient time to prepare formal proposals for restructuring in this manner, AALL catalogers would be glad to continue working on rule revision and to cooperate with others in further simplifying and clarifying the rules.

Background

Cataloging rules describe the literature of a discipline. The discipline will never change to conform to the rules a party or group outside the discipline wishes to impose upon it. In the case of law, the seeming complexities in the cataloging rules do not flow from the discipline of library science; rather they flow from the discipline of law. Legal literature is as it is. Law catalogers have not created it; rather, we rise to the challenge of describing it.

AALL catalogers would like to emphasize the importance of retaining specialized rules for access to legal materials. The resources are complex, are not commonly encountered, and create questions for legal and non legal catalogers alike. Providing specific guidelines promotes efficiency of cataloging by directly answering these questions. Concise, clear instructions allow the resources to be described and accessed using uniform guiding principles and result in records that allow the resources to be found and identified by users. The current rules provide consistency of access points in bibliographic records. Without rules addressing legal materials specifically, catalogers will be uncertain of what rules to use, and uniformity of access and predictability of retrieval will be lost.

Single set of rules

Accurate identification of legal materials is especially difficult for the generalist cataloger who occasionally needs to describe a law, court proceedings, or a treaty. Keeping the rules together simplifies the process of identifying the material and determining what its primary access point should be. If these rules are incorporated into the general rules, selection of the applicable rule will become much more difficult, leading to inconsis-

encies in access points and potentially leading to the creation of multiple records in our shared databases.

Advantages of collocation of these rules in one section include comprehensiveness, clarity, and ease and efficiency of use. The advantage to collocation outweighs the slight redundancy that is necessary for clear understanding and application of the rules in this section.

Simplification

In answering the 30 May 2005 call for proposals to simplify AACR2 Ch. 21 special rules, a group of experienced law catalogers considered each rule in turn, discussing the current rules, the functions they perform in identification and discovery, and ways that they could be simplified. In considering the rules for access, later instructions found in chapter 25 on uniform titles were also considered as they are closely related to the instructions in chapter 21. However, no recommendations as to the form of these uniform titles are included.

At present the rules provide for primary access points as well as added entries for those persons or bodies sharing responsibility for the work. In the future, the authority record for the work might carry some of these added entries allowing the record for the work to have a primary access point, while still allowing search and retrieval of the record if only a secondary access point is known. We do not know if the JSC is considering this option, and certainly many online catalogues are unable to utilize this cross reference structure at this time. This strategy has been used by LC for treaties and could potentially be applied to other rules in this section.

The legal rules could also be simplified in some areas by presenting them in a chart or table format with links to a fuller instruction. AALL would be happy to work with JSC on such a format; time constraints did not allow us to do so for this document.

Using the numbering of the current rules for convenience, we looked for places where simplification would lead to an improvement in the rule and for places where the rule could be eliminated or combined with other rules.

Discussion of Individual Rules

1. Laws

21.31. Laws, etc.

The primary access point for many legal resources is the jurisdiction plus the uniform title. Though capable of authorship, clearly a jurisdiction is somewhat different from a named corporate body, although it is treated as one in AACR. While laws are given as an example of a type of work to be entered under corporate body in 21.1B2, it would not be evident to the cataloger which corporate body it should be: legislature,

head of state, statute revision committee, jurisdiction? Rule 21.31 is needed to provide this specification.

21.31B. Laws of modern jurisdictions

We recommend that these rules be retained. They provide for primary access by the jurisdiction governed by the law with a uniform title for the law, and added entries for other responsible bodies. Additionally, if the enacting jurisdiction is different from the jurisdiction being governed by the law, the rules provide for entry under that jurisdiction with a uniform title for the law. All these elements are required for identification and citation of the work, and access to them must be provided to enable the user to find, identify, and select the record. The user could be a cataloger trying to determine if the record matches the resource in hand for copy cataloging or a researcher wanting to obtain a specific resource. The rule fulfills both the role of collocation and that of distinguishing two similar yet variant items one from another.

21.31B2. Laws governing more than one jurisdiction

Compilations of laws governing more than one jurisdiction are entered as a collection (21.7). We recommend that this rule remain with the legal rules to clarify the appropriate selection of access points. While this rule can be simplified, it addresses the complexity and potential ambiguity that could be encountered in a compilation of laws governing more than one jurisdiction.

21.31B3. Bills and drafts of legislation

Bills are entered under legislative body and drafts are entered under the responsible person or corporate body. We find that catalogers sometimes confuse bills and drafts with each other, as well as with the law itself, thus entering bills and drafts under jurisdiction or the incorrect responsible body. This confusion results in a misleading record for someone searching for a specific bill and has the potential for multiple records appearing in our shared databases for identical items. Currently we encounter this situation even though specific instructions exist. How much greater will be the frequency of duplication if such instructions are removed?

Although these rules do follow the 21.1-21.7 rules, we think 21.31B3 should be retained because it is clear, concise, and helpful in quickly determining what the primary and secondary access points should be. The examples are also very helpful in illustrating the concepts provided in the rules.

21.31C1. Ancient laws

We recommend that the rule be retained. These resources are rarely encountered and the rules provide much needed guidance.

2. Administrative regulations

21.32. Administrative regulations, etc.

This area is one of the most difficult areas to address. Administrative regulations pose complex problems that need to be explored further including consultation with international colleagues.

The rule divides administrative regulations into two types, those that are laws and those that are not laws. Once the type is determined, the rule is clear and easy to follow. We recommend that the rules be expanded to include guidance in determining whether administrative regulations are laws or not, and a default rule to treat them as laws when it is not clear.

21.32A1. Administrative regulations, etc., that are not laws

This instruction provides helpful guidance in determining primary and added access points and should remain.

21.32A2. Both the administrative regulation and the law are published together

This rule provides the criteria for choosing whether the primary access point should be the law or the administrative regulation and provides a default when the evidence on the chief source of information is ambiguous or insufficient. The wording of this rule could be simplified, but it provides clear direction for efficiently choosing primary and secondary access and should be retained.

21.32B1. Administrative regulations, etc. that are laws

This rule specifies the entries that should be made when the administrative regulation is a law, as in the United Kingdom and Canada. We request input from Canadian and British catalogers in deciding whether these should be removed from this area and put directly into the section dealing with laws (21.31). The additional instruction: "If the regulations, etc. derive from a particular law, make an added entry under the heading and uniform title for that law." is still required to provide linkage back to the law. This linkage is necessary so that a user can find and identify all regulations deriving from a particular law.

21.32C. Collections of administrative regulations, etc.

This rule provides direction for the two types of regulations, referring each type to the appropriate rule. We think it is a necessary instruction, allowing efficient decisions in determining the primary access points for a collection of administrative regulations.

3. Constitutions, etc.

21.33. Constitutions, charters, and other fundamental laws

In our discussion on this section, some law catalogers thought that this section presented an opportunity for simplifying the rules by combining all fundamental law into one section, presumably what is now 21.31. The laws of modern jurisdictions

would be expanded to include constitutions, charters and other fundamental laws that are entered under jurisdiction.

The question then becomes what to do with international intergovernmental bodies, such as the United Nations, which are currently included in this section. Rules for constitutions, charters, or other fundamental laws of these intergovernmental bodies must be included in some section of the rules so that catalogers can quickly determine what access points are needed to identify a resource.

4. Court rules

21.34A-C Court rules

These rules provide the information needed to provide access points for court rules. We think they are clear and easy to follow. They provide needed instructions for providing access points that will allow users to find and identify specific resources in the catalog.

5. Treaties

21.35 Treaties, intergovernmental agreements, etc.

We consider it important to continue to include rules for treaties. Catalogers rarely see treaties published separately, and guidance is important when needed. We have simplified the distinction between bilateral and multilateral treaties.

21.35A International treaties

The rules governing treaties (A1 and A2) need to address the distinctions between bilateral and multilateral treaties, simplifying their application.

For example:

21.35A1. Treaties, etc., between two governments (bilateral treaties)

Enter a treaty, or any other formal agreement, between two national governments under the heading for the government whose catalogue entry heading is first in English alphabetic order. Make added entries under the heading for the other government. Add uniform titles as instructed to the primary and additional access headings.

21.35A2. Treaties between three or more governments (multilateral treaties) Enter a treaty, or other formal agreement, between three or more national governments under the uniform title for the treaty.

21.35B. Agreements contracted by international intergovernmental bodies and

21.35C. Agreements contracted by the Holy See

Both should be retained since they cover very specific circumstances not often encountered.

21.35D. Other agreements involving jurisdictions

Rules 21.35D1-D4 cover specific situations and should be left as they are.

21.35E. Protocols, amendments, etc.

Both provisions of this rule should be retained. Ancillary documents need to be identified with their original treaty; whereas revisions should be treated as independent works.

21.35F. Collections

This section can be rewritten to parallel 21.35A.

For example:

21.35F1. If a collection of treaties, etc. consists of those contracted between 2 parties, enter it under the first named party on the title page and follow the rule for a single agreement between 2 parties. If such a collection has become known by a collective name, enter it under the uniform title for the name.

21.35.F2. If a collection of treaties, etc. consists of those between one country and 2 or more countries, enter under the heading for the first country. Refer from the headings for the other parties only if there are two of them. Add uniform titles as instructed to the main and added entry heading for the parties. If such a collection has become known by a collective name, enter it under the uniform title for the name.

21.35F3

We suggest that this rule be retained as it provides a specific instructional reference for general collections. It complements the previous provisions of the rule.

6. Court decisions**21.36. Court decisions, cases, etc.****21.36A. Law reports****21.36A1. Reports of one court**

This section provides an opportunity for simplification. The current rules call for primary access points to be determined according to the accepted legal citation practice in the country where the court is located. If that practice cannot be determined readily, the heading is then determined based on whether the reports are issued by or under the authority of the court. In the U.S. the practice of citing court reports by reporter ceased in the early 20th century. The instructions about entering court reports under the name of the reporter should be removed from the rules.

We suggest that the primary access point for a single court should be the court, whether or not the reports are issued by authority of the court. Additional access points for reporter and publisher if its responsibility extends beyond that of publication should also be provided. Simplifying this rule would not lessen the user's ability to find and identify an item, since all access points would continue to be provided.

21.36A2. Reports of more than one court

Similarly, this rule could be simplified. Primary access would be title, with additional entries for all courts if three or fewer, the first court if more than three, responsible reporter or reporters (if fewer than three, first named if more than three), editor or compiler, and corporate body unless it functions solely as the publisher.

21.36B. Citations, digests, etc.

This rule is helpful for deciding the appropriate access point for this type of legal resource and should be retained.

21.36C. Particular cases**21.36C1. Proceedings in the first instance. Criminal proceedings****21.36C2. Proceedings in the first instance. Civil and other noncriminal proceedings****21.36C3. Appeal proceedings.**

This section prescribes the access points for the proceedings of the first trial and for appeal proceedings. Since the caption "Proceedings in the first instance" is not particularly clear outside the legal community, we suggest that it be changed to: Proceedings of the trial court. Criminal proceedings; and Proceedings of the trial court. Civil and other noncriminal proceedings.

The rules contained in this section apply to the proceedings and records of criminal trials (21.36C1) and civil and other noncriminal proceedings (21.36). The rules are complex, but reflect the complexity of trial proceedings and of the documents being described. Consistent choice of entry is crucial to be able to find and identify all documents generated in the course of a trial.

These three types of proceedings could be simplified into two sections by combining the trial and appellate levels:

For example:

21.36C1. Proceedings of the trial court. Criminal proceedings and appeals. Enter the official proceedings and records of criminal trials impeachments, courts-martial, etc. and appeals proceedings under the heading for the person or body prosecuted.

21.36C2. Proceedings of the trial court. Civil and other noncriminal proceedings and appeals. Enter the official proceedings and records of civil and other noncriminal proceedings and appeals under the heading for the person or body bringing the action.

21.36C4-C9

These rules specifically address unique resources that are rarely encountered and, consequently, cause the greatest difficulty when they are encountered. The rules, to their credit, are clear, concise, and provide important direction for provision of access points. We suggest that they be retained.

The following members of the AALL Ad Hoc Committee to Comment on RDA worked on this document:

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