Deals mainly with the subject indexing of law books which are produced primarily for the use of the legal profession and law students. Vocabulary is specially important to lawyers, for whom definitions of words are vital. Lawyers' own terms, many of which are phrasal, must be used in indexes, although different works may require different approaches. The use of the words *law* and *legal* is examined, as are the order of words in headings, the use of prepositions and singular or plural forms. Specific rather than classified indexing is normally preferred. Advice is offered in relation to the indexing of references to legal matters in general books and in books on particular aspects of law for the layman.

**Introduction**

Many indexers who have little or no experience of dealing with legal materials feel some diffidence about tackling law books. They have the idea, quite correctly, that law books are somehow different, and equate different with difficult. One objective of this paper is to de-demonize law books.

It is necessary, firstly, to distinguish between the compilation of tables of statutes or case reports and the compilation of subject indexes for them or for any kind of legal treatises, journal articles, etc. Tabling is a completely separate skill, not dealt with in this paper.

**Importance of words to lawyers**

Laws and legal principles can be expressed only in words. There is no legal equivalent of mathematical formulae or musical notation, and yet the meaning of the law on any topic must be as precise and certain as possible. Therefore vocabulary is of special importance to lawyers who, in their efforts to achieve clarity, sometimes seem to have adopted strange usages of otherwise common words and to employ quantities of foreign-looking words and phrases which carry no obvious meaning for the layman. Great care is taken both by the legal draughtsmen and by the judges in preparing legislation and judicial pronouncements to make the wording as precise as possible. Nevertheless, a considerable amount of the work of the courts involves probing, testing and defining the meaning of the words in statutes and other legal documents. As a result, there has grown up a special type of legal dictionary: the dictionary of words and phrases judicially defined. The best-known of these already run to several thick volumes.

It follows that the subject index to a law book for lawyers must contain the lawyers' own terms, as they use them, with the minimum of constructive intervention from the indexer.

**Legal vocabulary**

**Distribution of legal terms by number of words**

No major subject area can be indexed using solely one-word terms. But it is my impression that law uses more phrasal terms than many other subjects, although a comprehensive study on these lines cannot be produced here.

Two well-used texts were scanned, and the number of terms with the initial letter C were counted by the number of words contained in each printed term and then reduced to percentages. The letter C was chosen because, in general, there are many more legal terms with this initial letter than any other (see the Appendix, below). The two volumes used and their percentage of 'C' terms were:


The results of the count were:

<table>
<thead>
<tr>
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<th>Thesaurus</th>
<th>Dictionary</th>
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</thead>
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<td>(386 terms)</td>
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</tr>
<tr>
<td>100.0%</td>
<td></td>
<td>100.0%</td>
</tr>
</tbody>
</table>

Clearly there were differences arising from the different purposes of the two volumes, but together they demonstrate the basic fact that only a little over a third of all the terms in a large and reasonably typical sector of legal vocabulary were single-word terms.
Types of phrasal terms

A preliminary study of the kinds of terms found (not all of which are exclusively legal) shows that the main categories of single-word terms are:

- concrete things, e.g. cars, cheques, commons, computers
- natural persons, e.g. children
- group persons, e.g. cabinet, charities, clubs
- abstraction, e.g. censorship, citizenship, conservation
- copyright
- abbreviations, e.g. Comecon
- operations, e.g. causation, computation, conveyancing
- special legal terms, e.g. certiorari, chattels, codicils
- custody

Terms which have different meanings, general or special, according to context: e.g., capacity, charges, consideration, construction, conventions, conversion, costs.

Multi-word terms bring in further categories, notably:

- systems, branches or types of law, e.g. canon law, case law, Celtic law, civil law, common law, company law, conflict of laws, constitutional law, criminal law, customary law
- Law French or Latin tags, e.g. caveat emptor
- special legal phrasal terms, e.g. causes of actions, choice of forum, choses in action, committal for trial, contempt of court

By far the largest group of multi-word terms consist of a noun and some sort of modifier, such as an adjective, another noun or a possessive case:

- adjective + noun, e.g. careless driving, charging orders, circumstantial evidence, civil marriage, collective bargaining, commercial credits, compensatory damages, constructive dismissal, corporal punishment, criminal liability
- noun + noun, e.g. capital allowances, caravan sites, circuit judges, crime prevention, computer crime, consumer protection, crown proceedings
- possessive case + noun, e.g. children's rights, carriers' liability, citizen's arrest
- noun + modifier(s), e.g. carriage of goods by sea, companies limited by guarantee, courts of inquiry

Another major category (by no means confined to legal vocabulary) is the names of organizations, e.g. Chancery Division, Common Market, Central Arbitration Committee, Court of Appeal, Crown Prosecution Service, Customs and Excise, Church of England

Make-up of indexing terms

It is stated above that an index should follow a lawyer's use of terms as far as possible. The indexer must, as always, identify and deal with synonyms, no matter what the particular author's style may have produced. There is no excuse for parallel but separate references to, for example, TESTAMENTARY DISPOSITIONS and WILLS, or to DONATIONS and GIFTS. In these cases, both alternatives are acceptable legal terms, so it may well be best to choose the shorter, simpler terms for the actual entries and to make see references from the longer terms. Publishers do need to keep the bulk of an index within bounds, so that they are likely to find shorter terms more acceptable than long ones, always provided that they are natural, rather than artificially constructed legal terms.

On the other hand, different works may require different approaches. For example, company cars and lunch vouchers provided by employers may be regarded as FRINGE BENEFITS or PERQUISITES in the context of employment law, but are universally described as BENEFITS IN KIND in UK taxation statutes. Index headings should be adopted accordingly, with the necessary references.

The use of law and legal in indexing

The examples above demonstrate what is probably the most frequent and important use of the word law in normal legal terminology. Where it is part of the name of a system or branch of law, it cannot properly be omitted, nor should the words in the term be inverted. There should be no need for a long list of references from inverted terms, such as: law, Celtic; law, civil; law commercial; law, criminal, etc.

Some documents may require entries to cover subjects such as law and order (a well-established term), law and equity (another), law and politics, law and sociology, and many other similar concepts. Apart from the first two here, a decision of principle is needed about the form of heading: whether to include 'and' or use some other formula, and whether to put 'law' first, or the other topic first, or to index under both.

Otherwise, the headings beginning with law in the two reference books were either proper names: e.g., Law Reform Committee, Law Lords; or very well-known generic terms, such as law centres, law reports, law schools. All of these should be entered as they stand.

The term legal can be used only as an adjective, and its presence or absence tends to be a matter of choice by the author, depending on his context. For example, the Dictionary gives a number of terms, such as legal leases, legal mortgages, legal relations, legal rights, where the 'legal' could probably be omitted in the context of a law book, but not in a more general work. On the other hand, there are some terms, such as LEGAL AID, LEGAL EDUCATION, LEGAL PROFESSION, LEGAL FICTIONS (not novels!), where the word legal should be retained and the heading should normally follow the natural word order.

Natural order or inversion?

The British Standard for compiling indexes¹ says that multi-word terms should normally be used without inversion. This rule should be applied to legal terms, as much as to any others. However, inversion is allowed if, for example, a number of related terms can thus be brought
together usefully. I submit that this is more likely to happen in a general book, where the legal aspects of a subject should be brought together with the appropriate other aspects.

There are two likely methods of achieving this result:

- *either* use law as a subheading, so that **COMPANIES/LAW** is used instead of **COMPANY LAW**;
- *or* invert the adjectival word and the main noun, e.g. **BANKS, CENTRAL** (which can be contrasted with terms such as **BANKS, REGIONAL**); or a semi-classified sequence can be created, e.g.:

  Evidence,
  circumstantial
  criminal
  expert
  hearsay
  [etc.]

*Use of prepositions*

When a preposition is embedded in a legal term, e.g. contempt of court, interests in land, compulsory winding up, breach of promise, breach of contract, bills of lading, etc.; the term should be used as it stands. However, if an inverted heading (or heading plus subheading) is required, a controversial decision arises. Hewitt and Banwell\(^2\) declare that prepositions 'should appear at the ends of the entries'. This results in headings, or more usually subheadings, such as:

- administrative actions, in
- discovery, of
- remittable proceedings, in

This contradicts the rule in BS 3700:1988\(^3\) that 'prepositions should be used only if their absence might cause ambiguity'. In the examples above, ambiguity is highly unlikely and little, if any, damage would be done by omitting the prepositions. In the following group the relevant prepositions have been given in curves:

appeals
- care proceedings (in)
- consent orders (against)
- discharge proceedings (in)
- Divisional Court (to)
- juvenile courts (to)
- Magistrates' courts (from)
- parental rights resolutions (against)

Clearly, something must be done to sort out the various very different aspects of appeals which are covered. Rather than using terminal prepositions, a better solution might well be to add another layer of sub-headings, thus:

appeals
- courts
  Divisional Court
  juvenile courts

As an alternative, an even more controversial matter, prepositions might perhaps be used at the beginning of subheadings. This is severely frowned on by Hewitt and Banwell\(^2\) but approved by Dorothy Thomas.\(^3\) However, it is suggested that the appeals example above might be acceptable in the form:

appeals
- against
- consent orders
- parental rights resolutions
- from
  - Magistrates' courts
  - juvenile courts
- to
  - Divisional Court
  - juvenile courts

Another possible example for this treatment could be a term such as **consultation**, which can refer to consultation about something or to consultation with somebody.

*Singular or plural form in headings*

A fairly simple rule-of-thumb is to enter persons and concrete objects in the plural: e.g., cars, caravans, children, companies, computers; and to enter abstract concepts in the singular: e.g., capacity, conveyancing.

However, usage is not so simple. Some terms may have different meanings in their singular and plural forms. For example, **COST** carries its normal everyday meaning, but **COSTS** has the special meaning of 'the expenses relating to an action', and **TAXATION OF COSTS** has the very specialized meaning (with no relationship to the Inland Revenue) of 'the examination by an officer of the court of the lawyers' bills of costs in litigation'. If there is the slightest possibility of doubt, a good legal dictionary should be consulted.

*Structure of indexes*

Andrew Green, in a recent article,\(^4\) referred to the existence of 'two rival traditions' of legal indexing which can broadly be defined as specific and classified indexing. Mr Green unequivocally comes down on the side of specific indexing, as of course, does BS 3700.\(^7\)

Nevertheless, substantial lists of subheadings under particular headwords are not necessarily undesirable. Any book on family law, for example, will contain a large number of references to children, in many different contexts. The index should bring together all the various aspects of the law concerning children, such as legitimacy, maintenance, education, medical matters, the effects of the separation or divorce of their parents, abuse (both physical and
mental), etc. It may be necessary to use several main headings. For example, an entry: CHILDREN/DIVORCE seems somewhat misleading, and might be better replaced by something like CHILDREN AND DIVORCE OR CHILDREN OF DIVORCED PARENTS.

If a long list of subheadings is needed under a main heading such as CHILDREN, a semi-classified arrangement might be helpful, bringing together groups of topics, such as FINANCIAL PROVISIONS OR MEDICAL ASPECTS.

**Headings and subheadings**

The most specific topic to be indexed in a particular paragraph may be something like ‘remedies for breaches of contract by sub-contractors in the building industry’. There are obviously several topical foci: remedies, contracts, breaches of contract, sub-contractors, building industry, some of which are likely to be implicit rather than explicitly stated in the paragraph in question. Constructing appropriate index entries requires care, to ensure that all necessary detail is included, but that irrelevant detail (if that exists in the context of the particular book) does not clutter the index unnecessarily. If the book is entitled something like ‘Remedies for breach of contract’, some of the topic foci, for example remedies, breach of contract, can probably be omitted from the index, as being implicit throughout the book, while building industry could probably be omitted from a book on ‘Building law’.

Flipped and/or rotated headings and subheadings (following MACREX terminology) are likely to be preferable to complicated references using subheadings and even sub-subheadings.

**Legal references in general books**

In indexing books on any one of dozens of general subjects, i.e. not specifically legal books, there may be mentions of the law of the subject. How these references should be tackled will depend on the nature of the book and the extent to which the mention is of a technical, lawyers’ variety, or is in more general, layman’s terms. If the former, it may be necessary to treat it as if it were a lawyer’s book, but if it is a layman’s reference, the problem can probably be solved simply by using LAW as one of the subheadings under the subject concerned.

For example, if the book is about trade unions and covers their history, purpose, membership, activities, finance, legal status and so forth, in all probability a sub-heading LAW or LEGAL STATUS would be very suitable.

There are also many books about the law relating to particular layman’s interests, such as motoring, footpaths, making a will, etc., and clearly intended for non-lawyers’ use. Here, the language is likely to follow the technicalities of the topic rather than the law and the indexing should do likewise.

**Appendix**

**Distribution of legal terms by initial letter**

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</tbody>
</table>

Although the two volumes were different in size and in purpose, the results at least confirm that there is a consistent pattern, with the initial letter ‘C’ occurring most frequently, by a large margin.

**References**

3. Ibid. para. 5.2.2.4.
4. Ibid., p.17.
7. Ibid. para. 5.2.1.1.