

Dave Rogers

institutions which are active in the field of classification and documentation of law in order to jointly define and verify linguistic and conceptual correspondence between legal concepts of the various systems.

This project is part of a wider initiative within the ITTIG aimed at fostering and facilitating communication in the legal academic world, in the legal professional sector, in the business sector and in public administration services to citizens. In this context the feasibility of diverse approaches to legal and linguistic harmonisation, while preserving the legal identity of different legal orders, will be verified. In fact, unlike technical and scientific disciplines, serious difficulties arise in translating legal material due to the system-bound nature of legal

terminology as each legal order is situated within a complex social and political framework which responds to the history, uses and habits of a particular country. A research study is underway covering topics such as the relationship between language and law, identification of legal language peculiarities, significance of legal translation in comparative law, identification of methodologies and tools for shared knowledge and exchange of legal information. The translation of the DoGi classification falls within such wider projects and intends to respond to the need to provide effective international access to Italian legal literature while experimenting with methodologies for enhanced exchange of legal information.

Biography

Ginevra Peruginelli is a researcher at the Institute of Legal Information Theory and Techniques of the Italian National Research Council (IITIG-CNR) as well as a lawyer. She is part of the team in charge of the maintenance and enhancement of the main bibliographic Italian legal literature Database (Dogi-Dottrina Giuridica). She specialises in legal language and multilingualism which is the research topic of her PhD at the Institute of Advanced Legal Studies (University of London).

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Sarbanes-Oxley Act Resources: Print and Electronic, Free and Fee

The Sarbanes-Oxley Act of 2002 has established a new reason for legal publishers to bring out books and loose-leaf services on a new topic. In his second contribution Dave Rogers from Sidley Austin's Chicago office describes materials of interest to law librarians and lawyers.

Introduction

The Sarbanes-Oxley Act of 2002 (Public Law 107–204) is one of the pieces of seminal legislation that will have an impact on the practice of American business as well as on the practice of law. American legislative initiatives with sweeping implications also have a collateral effect on the modern, more internationalised practice of law. Foreign Securities and Exchange Commission filers (particularly filers of 20F and related documents) have expressed great unease as they seek to navigate the



Dave Rogers

changes in the law. Domestic filers were only moderately less uneasy.

As is the case when major federal legislation passes, the Sarbanes-Oxley Act has generated a variety of published resources. In the current era, publishing has changed. Electronic versions of publications are put up on major information aggregators like Westlaw and LexisNexis. Determining what item in what format to acquire will require significant thought: Will a Gen X or Gen Y user be interested in reading a hard copy of the legislative history or will they rely on the electronic versions? Will the clients that have questions relating

to Sarbanes-Oxley be willing to pay for online books? Will the single volume synopsis that is less expensive be an orphan acquisition in four or five years, sitting on the shelf unused until the next weeding?

Formats and long term acquisition

In a place long ago and not so far away, an associate came to the reference desk. "I want the complete legislative history of the FIRREA legislation and I want it RIGHT NOW!" he demanded, pounding his fist on the reference desk for emphasis. The Savings & Loan debacle involving a very large bailout had resulted in new laws being passed by Congress. The librarian picked up the six inch stack of paper that had arrived by pouch from the DC office that contained the U.S. House and Senate materials and thumped it next to associate's pounding fist. "What client number do you want to charge for the copies?" she asked sweetly. The stunned associate wandered off highly confused that his request for an immediate task had been thwarted by the moat of pre-planning. When he attempted to charge the copies to a firm billing number and was told we couldn't charge outside copies to the internal number, we accepted his personal check to reimburse the DC clerk's out-of-pocket costs.

In that situation, within about two weeks all of the items that involved that piece of legislation arrived from one or another of our regular sources. In most cases, multiple copies of key materials arrived without significant intervention by the library staff. While other firms had waited for BNA and CCH to deliver materials (two of the publishers that specialise in frequently updated materials), our attorneys were already in a position to offer client seminars. The distinct competitive advantage that used to be in place for firms with access to legislative materials has evaporated with the advent of electronic resources.

Fast forwarding to today, many of the results that would have required significant effort of a person standing at a photocopier can be completed with several intelligent clicks on the Thomas web site (thomas.loc.gov – a site that is operated by the Library of Congress that also has links to the Government Printing Office materials as they are created). Information delivery speed depends on the number of pages per minute that can be printed and broadband telecommunications technology and not prescience of a somewhat cheeky librarian. Committee reports, Congressional Record materials and other items are available very quickly and at no cost. Hearings are somewhat problematic unless they are recorded for quick transcripts, but they are often available for major legislation.

Corporate Fraud Responsibility: a Legislative History of the Sarbanes-Oxley Act of 2003. William S. Hein & Co.: Buffalo, NY: 2003. 2 volume core edition ISBN 0837734355. \$250.00.

This reprint of materials from the 107th Congress combines the law itself, reports from the U.S. House, hearings and debates for the entire set of discussions for the bills that formed the Act. The Presidential materials and bill versions are also included in the core collection in the first two volumes. A supplemental collection in volumes 3 to 10 includes related bills, related hearings, and committee prints. Given the number of hearings on Enron that are "related", it is not surprising that the materials are set apart on their own. The additional volumes add \$800 to the set's purchase price.

The hardbound format with one-to-one page reprints of the materials is a benefit for users who are seeking legible copies to attach to briefs or memoranda. The reprints from the Congressional Record are reduced to fit the 9" format followed by the GPO materials. The reduced size reprints are still easier to read than computer screens for many users – and will have a better appearance than computer-generated printouts when copied for attachments. The acid free paper and quality binding will survive for many years.

Although the materials can be reconstructed from free sources and are available from major online information providers, purchase of the two volume compilation is highly recommended for all libraries with an interest in the legislation. The full ten volume reproduction should be considered for collections which maintain a deeper collection on the corporate sector. The acid free reproduction will probably survive years of use better than the original GPO products. If the title is acquired, noting its availability in the *United States Code Congressional and Administrative News* (USCCAN, published by West) volumes would be highly suggested, as patrons might not think of the resource if they are in the initial stages of looking at the legislative intent. The inclusion of the Congressional Record material is a great convenience.

The USCCAN only includes the House Conference Report along with the Presidential comment when George W. Bush signed the law. The two pages that are included (not including the public law) are somewhat underwhelming and would be very frustrating for a researcher seeking an initial source of documents in hard copy to begin a meaty Sarbanes-Oxley question. If the Hein reprint is purchased, noting its existence in the USCCAN volume would probably relieve a panicked associate who might not realise the resource exists otherwise.

For collections which wish to have a unified source for the hearings and committee prints regarding Enron, purchase of the supplemental volumes of the Hein reprint would be a wise choice. Although the material is available over the web for free, its sheer volume and the potential for overwhelming telecommunications resources justify spending the money now. Cataloguing the individual titles reprinted within the set would also enhance the usage of the set. Librarians, let alone patrons, probably would not think to check a legislative history for some of the reports on Enron.

Both LexisNexis and Westlaw have established legislative history material pages on their services. As a searching tool, both would be convenient for locating materials that don't readily show up on quick look at a table of contents or by looking at the CIS abstracts. Given the nature of the legislation, relying on the paid services exclusively is hard to justify. Future generations of users and future interfaces with legislative history materials may improve the online tools. At present, there is a high potential for each user to knowingly or unknowing print and reprint the materials for later perusal. The Hein reprint did not have an effective index, which increases the need to use the online resources to attempt to locate your needle that could be in ten thousand haystacks.

The Thomas site is certainly a reliable and inexpensive source for the legislative history materials. If an entity was interested in creating a version of the legislative history in a computer-searchable format with a more user-friendly search interface for finding nuggets in the text, the resource would be perfect. With the current Thomas interface, the time taken to try and work out the search tool provided to find a particular titbit would be very frustrating. In other instances, Thomas is fine and at present the free electronic resource does not have the horsepower to replace the paid online services for effective searching.

Single volume treatises

Several single volume treatises have emerged to provide snapshots of interpretation on the Sarbanes-Oxley Act. Some of the treatise-type materials were self-published by individual law firms not wishing to use traditional publishers and hoping to attract potential clients. For the purposes of this review, these items were not included. Some of the law firms that produced single volume treatise did go through the traditional publisher route.

Practical Guide to Corporate Governance and Accounting: Implementing the Requirements of the Sarbanes-Oxley Act. David E. Hardesty. NY: WGL/Thomson RIA, 2003. ISBN 0791351319. Reviewed with *Corporate Governance and Accounting Under the Sarbanes-Oxley Act of 2002: a Guide for Accountants, Executives, Lawyers and Securities Analysts.* David E. Hardesty. NY: WGL/Thomson RIA, 2002. ISBN 0791347869.

A 2005 edition has been published but was not readily available for review.

Hardesty, a CPA, created a work that appears to be a solid alternative for those seeking a tool for Corporate Counsel and officers of corporations. The letters that came with the book indicate that the titles were sent out to "Dear Colleagues" who were invited to keep it and pay for it or return it with the enclosed shipping label.

Marketing methodology aside, the resource provides valuable tables by act sections. Since the two titles were each sent in October of the previous two years, there

might be a later edition floating around somewhere in our receiving room. Most librarians prefer to have a different method for ordering materials. The later edition reprinted primary source material, adding to its left and \$15 to its cost. Annual purchase is not recommended, although purchase of a 1993 or later edition for the tables would be useful for larger collections.

Practical Guide to Sarbanes-Oxley Compliance: Practical Approaches for Compliance with Sarbanes-Oxley and related SEC, NYSE and NASDAQ Rulemaking. Boston: Massachusetts Continuing Legal Education, 2003. No ISBN. No price quote available.

This title is not widely owned outside Massachusetts, nor is it cataloged as being owned by many firms in the state of publication. A friendly law firm librarian scanned the table of contents and a sample chapter for purposes of this review. The sections of the book are Disclosure Controls and Procedures, Preparation and Certification of Periodic SEC Reports, Management's Discussion and Analysis of Financial Condition and Reports of Operations or "MD&A," Drafting MD&A in 2003, Spotlight Returns to Corporate Websites, and Current Proposals by NYSE, AMEX and NASDAQ: Board and Audit Committee Roles in the Era of Corporate Reform. The seventh chapter includes specific instructions on filling in the blanks of Sarbanes-Oxley and includes a number of memoranda that were prepared to assist clients. The final chapters are Standards of Professional Conduct for Attorneys, Current Developments for Audit Committees, and Examples of Committee Charters and Policies. The act is also reprinted as a separate section for easy reference.

The sample chapter sent is a reprint of a memorandum sent by Goodwin Procter to "Our Public Company Clients." The material is solid, with an emphasis on communicating what is necessary to accomplish with post-Sarbanes-Oxley securities filings for people in positions of authority at public corporations. As is often the case with footnotes to web pages, I was unable to retrieve materials referenced on the website referenced in the January 13, 2003, reprinted memo. The emphasis is not necessarily on writing by lawyers for lawyers, but rather lawyers writing to CEOs, CFOs, and board members. If other chapters are similar, the title may be of more use for clients than it is for attorneys. Purchase of this resource is not recommended for law firms. Libraries that purchase all MCLE materials would do well to keep the title in their collection – and maybe even catalog it.

When contacting the publisher for a price, the customer service person was not optimistic that the title would be available. A later seminar by the same name was available as a CD-ROM that apparently did not include print materials.

The Sarbanes-Oxley Act: Analysis and Practice. NY: Aspen Publishers, 2003. ISBN 0735544921. \$75.00.

Prepared by Cleary Gottlieb attorneys, this title is an attempt to create a best practices volume in 189 pages, plus appendices. Heavy on graphics and tables, the title provides a good overview of the necessities involved in Sarbanes-Oxley compliance.

Chapters include Overview and Implementation, Considerations for Foreign Issuers, Audit Committee Responsibilities, Listed Company Audit Committee Standards, NYSE and Nasdaq Governance Proposals, Officer Certifications and Internal Control Reports, Questions to Ask Before Certifying Periodic Reports, Designing Disclosure Controls and Procedures, Practical Considerations for Earnings Releases, and Attorney Professional Conduct Standards.

As with other materials like the MCLE title that have been produced, additional documentation that is referenced is available at the Cleary Gottlieb web site. Many of the chapters are heavily footnoted and the writing appears to be written more for lawyers and for corporate executives. The General Counsel at a company would be highly likely to keep this book on their shelves to assist in answering questions. Corporate and securities attorneys in firms would be drawn to the table in the back of the book for a summary of new disclosure requirements which includes the topic, disclosure item and which and where in the filings the disclosures should be made. Sample forms are included for officer certifications.

In the initial rush to bring public corporations into compliance, this book was a valuable resource. It is a high quality source for information. The paperback format interferes with long shelf life. The book is a valuable starting point and still serves as a primer on the topic. Practitioners, however, will probably lean toward updated materials and will not see the title as a last stop as a resource. Its value as a starting point for a new corporate associate afraid of incurring a cost to gain background information makes the title worth considering for larger law firm libraries with an influx of new associates each year.

Sarbanes-Oxley Act in Perspective. Harold S. Bloomenthal. West/Thomson, 2002. 2005 edition is available. \$144.00. Available as part of the Securities Handbook Series.

The 2002–2003 edition was sent out by West, causing a bit of a storm within the lawlib listserv about whether or not the book was an unsolicited gift. Copies have disappeared from local shelves, so apparently it found at least some use. There is a 2004 edition. For those collections where copies have circulated, purchase should be considered. For those collections which have chosen not to subscribe or purchase, marking the title with “No Longer Updated” is strongly advised. The current edition may have enhancements that were not in the initial edition but it had not hit the shelves of the libraries that catalogued the title as a serial at the time of this review.

Sarbanes-Oxley Manual: a Handbook for the Act and SEC Rules. James B. Hamilton and Ted Trautmann. Chicago:

CCH, 2003. ISBN 0808010611. \$79.00. A title with the same name and authors was also published by LexisNexis. There is a lot of comfort when looking at the distinctive typestyle employed by CCH for librarians of my generation. We started our careers begging our sales reps to call their relations or friends in the printing plant to get us the first copies of materials that had dried after printing. On at least one occasion, I didn't care that the glue on the spine hadn't dried before receiving a copy that I could put into the attorney's hands as he went to speak about the newly passed law.

CCH did not disappoint. The six chapters are an Overview, Accounting Oversight Board, Auditor Independence, Corporate Governance and Responsibility, Issuer and Management Disclosure, and Other Reforms. The law text is also included. The only limiting factor is that it is a paperback and will lead the researcher to seek an easy way to update the materials.

Internal notations to accounting and legislative references and not footnotes are used throughout the book. Subsequently, there is not a lot of analysis that has moved its way out of the text. This factor can be a positive or a negative when comparing the book to the title published by Aspen with Cleary Gottlieb attorneys. There are many references to the legislative history materials within the paragraphs that arguably make the legislative history materials more user friendly. If only a single resource is purchased, this title would be the key paperback to include. It is recommended for all collections.

Loose-leaf services

Two major loose-leaf sets have emerged to provide updated information on the Sarbanes-Oxley Act as well as other materials in a similar format. As others have said before me, considering acquisition of a loose-leaf service is a long-term commitment. The format means that in many instances the local law school will not permit the title to circulate.

For whatever reason, borrowing the titles on interlibrary loan has been a challenge. Firm libraries that have acquired them seem to have universally had an attorney who wanted the book kept in his or her office. Added volumes caused angst as attorneys scoured the material to see what they had missed previously.

Sarbanes-Oxley Deskbook. John T. Bostelman. NY: Practising Law Institute, 2003 -. ISBN 0402403046. \$325.00.

The initial foray into this publication was via the Westlaw iteration and not the hard copy. Although the book is widely owned by Chicago law firms, it seemed to have been issued with a cable that attached it to a particular attorney's desk. In some ways, the title is unfortunate since many law firm collection decisions start with a matrix that includes frowning on materials described as hornbooks, nutshells, casebooks or deskbooks.

Dave Rogers

The online version is easy to navigate on westlaw.com. The table of contents helped in drilling down to particular content. The largest question will be whether or not your corporate/securities attorneys feel comfortable with the electronic format. Additionally, the phobia of incurring an online charge that seems to be more common in transactional practices than among litigators may present a challenge for librarians seeking to use the electronic version on a pay per use basis. Different agreements with Westlaw will flavour the factors in a couple of different ways, but taking into account an updated version of Ranganathan's *Second Law – Every Reader Their Book in Their Format*. In the event that a purchased copy is off the shelf or if the library elected to purchase the other loose-leaf service, the online edition would meet many needs, although not necessarily the wants, of patrons.

The print edition has the advantage of leafability – the sense of assurance that as an attorney is on the phone with the client he can find an answer nearly instantly. The resource in print or on a CD-ROM format that would permit browsing without incurring costs that would show up on an online usage bill edges out westlaw.com for users in most corporate and securities practices. Informing other users unable to access the print copy secured by a chain to an attorney's bookshelf of the online availability lets the patron decide which costs and benefits weigh more heavily for their particular information application.

The print and electronic iterations of this title are extensive in their coverage. At the time of inspection, the online version has 27 chapters broken down into eight parts, consisting of: Introduction, Issuer Reporting, Governance, Auditors, Attorneys, Ancillary Gatekeepers, Miscellaneous (including special concerns of non-US issuers, Registered Investment Companies and Recordkeeping), Remedies and Penalties, and Appendices (cross-reference tables, limited legislative history materials, a table of congressional hearings, and the Public Company Accounting Oversight Board rules). A breakdown of the specific chapters is available at the Practising Law Institute web site. There have been three updates since it was published.

The book aims to be written for everyone in the Sarbanes-Oxley reporting string, including attorneys. Heavily footnoted, it would certainly appeal to the attorneys in firms. It is worth the relatively higher cost for initial purchase and the significant investment that will be made in updates. If this title is purchased, it will be heavily used – although it may only be used by one attorney who will be unwilling to share it with others. Purchase is highly recommended by law firms and by law libraries which wish to support practising attorneys.

Practitioner's Guide to the Sarbanes-Oxley Act edited by John J. Huber, et al. Chicago: American Bar Association, Section of Business Law, 2004 -. ISBN 1590313062. \$109.95.

The publisher's name will probably bring flyers to the librarians, carried in the hands of several associates, secretaries and others with contact from partners. As an ABA publication, it carries a stronger publisher cachet than Practising Law Institute. Serious consideration should be given to the pros and cons of each set prior to automatically purchasing the ABA title.

The single longest chapter in the ABA title was the introduction. Most of the other chapters were 30–40 printed pages. By comparison, some of the chapters in the PLI title were twice as long. The ABA title did not have an index, which may be a determining factor in choosing between the two loose-leaf services.

The volume is currently broken up into seven parts with individually numbered chapters. They are an Introduction, SEC Disclosure and Procedure, SEC Conduct Rules, Auditing and Accounting, Corporate Governance, Securities Markets, and Criminal Sanctions. Chapters underneath the points are discernable, but may be a source of confusion for patrons asking for "Chapter 4" – five of the parts have a Chapter 4. The full table of contents is attached to the Library of Congress bibliographic record.

Heavily footnoted, the title is written by lawyers for lawyers. Its purchase is not as highly recommended as the Deskbook. Over time, the content will probably rival the PLI's offering. For budgets that have to choose one or the other, the PLI's Deskbook would be a better overall choice in the short term. Ultimately, libraries will probably need to purchase both in the same way that other collections need more than a single offering to meet patron needs.

The SEC enforcement process: practice and procedure in handling an SEC investigation after Sarbanes-Oxley. Colleen P. Mahoney. Washington, D.C.: Bureau of National Affairs, 2004 - . Part of the Corporate Practice Series, Vol. 77-2nd. Usually this title is obtained as part of the Corporate Practice Series and not as a stand-alone title. BNA portfolios are noted for being short, to the point, and highly practical. Other chapters in the series also deal with other implications of the Sarbanes-Oxley Act.

Hundreds and hundreds of articles have been written about the Sarbanes-Oxley Act and are available on Westlaw and Lexis. One article that caught special attention is:

Mark S. Bergman, "Special Report: Frequently Asked Questions Raised by Non-U.S. Issuers Concerning the U.S. Sarbanes-Oxley Act." *World Securities Law Report* (BNA). Vol. 11 (3) March 2005. Pp. 26–39.

Looking ahead, the legislative history materials will probably find their niche in collections with the securities, antitrust, and labour sections that we have all grown to know and love. As is the problem for other legislative history materials, the lack of indexing brings many to rely on secondary sources and tools to search for information on a particular point or references to items that went into a particular section of the law.

In looking at the field of information, cost was a secondary concern. Some of the prices will inevitably be quaint, so should be viewed for comparison purposes only. Over time, the loose-leaf materials will include tables that make some of the single volume paperbacks valuable. At this point, purchase of more than one item may be required to have an adequate collection in this developing field of law.

In an era of limited budgets, each library will need to decide whether they will have enough interest to purchase the more expensive titles. Libraries expecting to use the USCCAN for basic legislative history materials will be unpleasantly surprised when the time comes for a research project. To keep the prices in perspective, a summer associate could easily incur far higher costs in a single online research session.

Dave Rogers is the Public Services Librarian at Sidley Austin Brown & Wood LLP in Chicago. He has worked in law firm libraries for the past 15 years. He has an MS LIS from the University of Illinois and is completing an MBA in International Development from Hope International University in Fullerton, California. His baseball allegiance to the Chicago Cubs translates into being a rabid observer of the Tranmere Rovers.

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Disaster Planning and Recovery – the Caribbean Experience

Hazel Hewison, BIALL Chair, reports on the CARALL Conference workshop on disaster planning, following the disastrous 2004 Atlantic hurricane season and the devastating Asian tsunami tragedy in December 2004.

Introduction

I wrote about my visit to the 2004 CARALL Conference in the February Newsletter.

The second day of the Conference was devoted to the topic of disaster preparedness which was very timely for the entire region given that the 2004 Atlantic hurricane season was notable as one of the deadliest and costliest seasons on record, with at least 3,132 deaths (mostly in Haiti) and roughly \$42 billion (USD) in damage. The biggest storms were Hurricanes Charley, Frances, Ivan, and Jeanne, all of which struck the U.S. state of Florida. Jeanne also wreaked havoc in Haiti, killing approximately 3,000 people, while Ivan raged through Grenada, Jamaica, and the Cayman Islands before striking the U.S. Gulf Coast. Frances and Jeanne both hit the Bahamas at full-force.

John Aarons^{1,2}, the Government Archivist from Jamaica began the day with a paper on disasters and their impact on libraries in the Caribbean. He outlined the geological and meteorological reasons why libraries in the Caribbean needed to ensure they had disaster

preparedness and recovery plans in place to cover all disasters (including terrorism), which were likely to occur.

He explained that the climate and geology of the Caribbean region make it more susceptible to natural disasters such as floods, tidal surges, hurricanes, and volcanic eruptions, as some areas lie over the boundary of a tectonic plate giving an increased risk of earthquakes and volcanoes round its edges, whilst the annual hurricane season lasts from June–November each year. These natural phenomena cause significant casualties and damage to property.

Natural phenomena which either impact on libraries, or have the potential to do so are volcanoes, earthquakes, and hurricanes.

- Volcanoes

There are 18 “live” volcanoes in the eastern Caribbean³ and islands such as Grenada, St. Vincent, St. Lucia, Martinique, Guadeloupe, Montserrat, Nevis, St. Kitts, St. Eustatius and Saba have live volcanic centres. There have been numerous eruptions on Montserrat since the 1995