The advantage of the ‘astonishing’ fact that ‘a book of this nature has not already been produced’ (xxxiii) is that, when it is, it has a fresh and exciting current feel to it. Since its publication, we have had the Al Bashir affair, and a cracking up of the volume in the sporadic blasts of vitriol directed at the judiciary by those wielding political power. These make this work all the more topical. We are all, in one way or another, aware of the epic theatre that envelops our attempts at being a Rechtsstaat. We know that the judges, the process of appointing them, and the battles they sometimes wage against the politicians, and amongst themselves, are central to this theatre and to the success of our political order. Yet, seeing and reading it all in one piece in black on white, rather than experiencing it as a lawyer and a citizen in small doses over months and years, makes for sobering reflection on the dimensions of the drama and on the magnitude of what is at stake.

This work is a collection of thematic essays. Its success may well be due largely to the wisdom of the selection of contributions and contributors. Quality still manages to trump diversity, or, apropos of a question one essay considers for these values in relation to the judiciary itself, the latter manages to entice the former. What appears to have been tight editorial policy lends a sense of unity of tone to the contributions that is admirable. The work is critical, even harsh, where this is appropriate, and good luck to you if you want to identify The Party Line.

The treatment of the appointment process, and of the role played by the epic by the Judicial Service Commission, makes for compelling reading. Analytical lawyers and scholars will also enjoy the expert handling of the discussion of judicial accountability, and of the sometimes surprising nuances this concept can entail. One expects nothing less from that old stalwart Hugh Corder.

Another theme that is woven extremely skilfully into the broader fabric of the separation of powers is that of the boundaries of appropriate activities for judges, especially when it comes to commissions of inquiry and speaking up outside court.

A refreshing feature for what is undoubtedly a scholarly work is its liberal recourse to more popular, especially journalistic, sources, which has it tap into contemporary socio-political culture in a way that animates the characters on stage such as to extend the appeal of the work beyond the confines of the lecture hall and chambers.

The chapter on the Constitutional Court offers fascinating detail on the process of creating ‘collegial’ judgments (an adjective describing the process employed by a former Justice of the Court, Kate O’Regan, quoted at 373). Some may recall a comparison said to be inaccurately attributed to Bismarck, between the manufacturing processes of sausages and legislation – unquestioning respect for the ultimate product is best fostered by oblivion to the details of its manufacture. But unquestioning respect is not what this work demands. Instead, it promotes the likelihood of what ultimately is more meaningful respect by engaging in a process vital to the survival of our Rechtsstaat status – critical and informed, and always temperate, appraisal. The tone of the appraisal is perfect. It is neither tame deference coupled with lame exposition, nor intemperate whining unmoored in academic rigour. It could so easily have erred in either direction. The law student is probably the primary beneficiary. The lawyer, and the citizen, are not far behind.

Frank Snyckers SC, Johannesburg Bar

Planning Law Casebook

Jeannie Van Wyk and Petrus J. Steyn

Juta (2015)
pal planning, the intrusion of the provincial sphere of government including municipal powers), Blue Moonlight Properties (eviction, co-operative government, access to housing) to Fuel Retailers’ Association of South Africa (environmental authorisations, legislative competence) and Oudekraal Estates (administrative action). Cases on enforcement and nuisance are also included. Each analysis contains a summary of facts and the remedies applied for, followed by the court’s decision and a discussion of the issues dealt with or arising from the case and at the end is a brief list of related decisions, which is also helpful.

All the cases featured in this book carry a strong component of administrative law, which means that it will appeal to junior colleagues with an enthusiasm for the subject as a useful, practical and relatively inexpensive addition to their libraries.

My overall view is that on its own Planning Law Casebook will suit practitioners searching for an expedient access to resources on planning law but at best it is a worthy companion to Planning Law (2nd ed.).

Sandhya Mahabeer, Durban Bar

Legal crossword
Number 27

Across
(in order from top to bottom)

1. What the Bar offers young advocates
2. Foundational constitutional value
3. Private litigation
4. Condition after court
5. Involving two parties

Down
(in order from left to right)

1. Ecclesiastical revolution
2. What inquisitorial factfinders do
3. A key you wished you had in court
4. Mild misdirection
5. Windfall