award safety net and concepts such as 'flexibility' rest on assumptions which have gone largely unchallenged. From here, we either decode the discourse or use the facts and figures of inequality to play on the consciences of our legislators. Adopting a style all her own, Bennett largely achieves both ends. I commend her book as a subtle and thoroughly researched work.

*Rohan Price**

Margeret Davies, **Asking the Law Question**, Law Book Company, 1994, pp xi, 308, $45 (pbk).

The highest compliment I can pay to Margeret Davies' delightful (and slightly tongue-in-cheek) book, *Asking the Law Question*, is to admit openly and publicly that it is a book I would be proud to have written myself. It is charmingly written, both scholarly and rigorous, and altogether a splendid first work by an immensely promising young scholar. It admirably fulfils its primary objective, that of being an accessible introductory text for students encountering jurisprudence for the first time. It is to be hoped that it will quickly find a place in our law schools and in other disciplines where the 'law question' is asked.

Asking the Law Question succeeds in conveying much of the range and vitality of contemporary scholarship in jurisprudence. The author charts a clear and original course through a range of conventional (and not-so-conventional) areas of theoretical scholarship, including common law theory, natural law and positivism, 'legal science,' critical legal studies, a variety of 'feminisms' and postmodern scholarship. The range of perspectives canvassed and the frequently perceptive and witty way the author addresses them are, on their own, sufficient to ensure that *Asking the Law Question* is entitled to a place on the bookshelf of every legal academic who is interested in the insights jurisprudence has to offer (and hopefully that means every legal academic).

While, on one level, *Asking the Law Question* can be read as an engaging descriptive introduction to contemporary legal theory, on a deeper level Margeret Davies is never willing to content herself with the merely descriptive. Her work has a vitality and freshness that descriptive accounts lack because Margaret Davies remains

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throughout a lively intelligence, engaging with the texts she has chosen to interrogate. This is particularly evident in her treatment of legal positivism and the difficulties which positivist theorists have encountered in their quest for 'an absolute ground or foundation of legal authority'.[9] As she notes,

> as a matter of logic, authority cannot be legitimated absolutely. In particular the positivist thesis of the separation of law from non-law breaks down, basically because the source of the separation (in the shape of a fundamental rule of some sort) can itelf never be grounded in law.[10]

Her work, I believe, is both more rigorous and infinitely more readable than Roger Cotterell, for example. Its grace and wit ensure that readers will return to it again and again.

Although initially I was somewhat puzzled by her treatment of positivism as *both* an alternative to natural law and as a species of 'legal science,' I suspect that my puzzlement arose from questions of detail and emphasis rather than of real substance. Our differences are, I believe, a consequence of the fact that the primary intellectual thrust of *Asking the Law Question* is theoretical and structural rather than political and ideological. Also, I suspect, these difference arise because Margeret Davies is (particularly in her early chapters) rather more willing to respect law's insistence that it has an automous existence than I could ever be.

Having said this, I must admit that I do remain bemused to find legal realism, legal formalism, and law and economics collectively addressed under the rubric 'legal science.' The kind of 'certainty' to which realists aspired remains, it seems to me, substantively different from that to which formalists and law-and-economics scholars aspire. While I recognise the shared 'scientific' emphasis upon examining identifiable phenomena and classifying them within a theoretical framework which purports to make it possible for another to reproduce the classification (given the same raw data), I believe that the differences between these schools are equally or even more important. Legal realism's intellectual roots lie in American pragmatism, and, in particular, the work of Dewey. Its ambition was largely limited to providing a theoretical framework which would enable observers to predict legal outcomes given access to the relevant social data (legal and non-legal). Legal formalism, legal positivism, and law and economics, on the other hand, have very different intellectual roots and their ambitions are much less

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9 M Davies, *Asking the Law Question*, p 92.

10 Id at p 93.

modest. All of them purport not only to predict legal outcomes, but also to provide an account of how legal officials ought to reach those decisions. These theories, in other words, were both descriptive (and in that way 'scientific'), and normative or prescriptive.

Having registered that (quasi-obligatory and relatively minor) quibble, I believe that Margeret Davies' work has already earned her a solid and well-deserved place in Australian jurisprudence. Hers is a fresh, lively and imaginative voice whose range and scope is commendable. *Asking the Law Question* is a welcome addition to contemporary works in jurisprudence, and those of us who believe that 'asking the law question' is central to our work as scholars owe her a debt of gratitude and look forward to further works by a promising and provocative scholar. Even more welcome, I might add, is a lively, articulate and provocative feminist voice. While feminist scholarship within the Australian legal academy has been rich and varied for some years, elegant and disciplined feminist theoretical voices remain rare, here as elsewhere.

*Sandra Berns**

Dennis Rose, **Lewis Australian Bankruptcy Law**, 10th ed, Law Book Co, 1994, pp 350, $45 (pbk), $65 (hb).

This text, now in its tenth edition, is still the standard text for Personal Insolvency courses in Australia. The book is intended 'as an explanation of the principles of bankruptcy law, and as a guide to its details, for use by students, legal practitioners, trustees and other people concerned with bankruptcy, arrangements between insolvency debtors and their creditors, and related matters.' The monograph more than fulfils this aim. It contains a detailed analysis of the principles applicable to all areas of bankruptcy and Part X arrangements with further references to the statutory provisions, the decided cases and the other texts.

The book looks at the area of insolvency in chronological fashion beginning with an introduction to the purposes of the law of bankruptcy and the applicable legislation, both Federal and State. Chapter Two examines the history of bankruptcy and Chapter Three the administration; the author explaining the role of the courts, officials and trustees.

Chapters Four through Eight examine the way in which a person may become bankrupt. The principles applicable to debtor

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