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Book Review of Dangerous Supplements: Resistance and Renewal in Jurisprudence

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Dangerous Supplements: Resistance and Renewal in Jurisprudence

Peter Fitzpatrick, ed.

London: Pluto Press, 1991, 218 pp.

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Dangerous Supplements: Resistance and Renewal in Jurisprudence (1991), edited by Peter Fitzpatrick, is the first instalment in a new series, Law and Social Theory, being published by the progressive British publisher Pluto Press.¹ As someone who had been subjected to an intensely positivistic—perhaps even authoritarian—jurisprudential, undergraduate education in Belfast, both the title and the dustcover intrigued me. The latter portrays a towering, seemingly unassailable, citadel with “jurisprudence” inscribed upon it, being bombarded by paper planes with the insignia of critical theory, semiotics, feminism, postmodernism and “new ideas.” This image led me to wonder whether the book would signal a counterhegemonic breakthrough that would destabilize conventional British legal theoretical wisdom.² The answer, I think, is an unfortunate, but potentially promising, “not yet.”

The book is relatively short (218 pages in all, including a quite useful index) comprising only seven essays. As is often the case in jurisprudential collections, the essays are of uneven quality. The stronger ones, in my opinion, are those by Fitzpatrick, Thomson, Hunt and Smart; the weaker ones are by Sugarman, Goodrich and Hachamovitch and Carty. More specifically, several of the essays pay insufficient attention to the theme of being a dangerous supplement to conventional jurisprudence. Perhaps just a little more editorial prodding would have been in order. Furthermore, it is not totally clear as to who the contemplated target market might be. Some of the essays appear to be introductions and overviews to certain perspectives, thereby suggesting an anticipated student audience, while other essays are more like “performances” of particular perspectives thereby suggesting an anticipated academic audience. Once again, a little more editorial guidance would not have gone amiss.

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1. Forthcoming titles encompass: critical analyses of family, tort, land, trusts and contract law, as well as work on law in the information society, a jurisprudence of race, class and gender, and a potentially intriguing *Critical Lawyer's Handbook*.
 2. I say this in full recognition that some excellent progressive jurisprudential scholarship has emerged from Britain in the last decade or so, but also with the awareness that this has remained peripheral because of the domination of neo-positivist jurisprudence.

It is neither possible nor appropriate to engage in a full discussion with each of the contributors to the collection, so in this review I propose to briefly highlight the general nature of each of the inquiries and then to interrogate their conception of the appropriate ambitions of progressive jurisprudence. More specifically, I will argue that although each of the essays goes a long way in “demythifying” conventional jurisprudential wisdom on an intellectual level, at the level of the politics of legal education, they do not go far enough. The essays fall short in that, first, they are too historically retrospective;³ second, their collective embracement of at least one strain of postmodernism renders them a tad too cautious; and third, they are insufficiently specific in their proposals for reconstruction. Consequently, the essays are less dangerous to the traditional canons of jurisprudence (and the power elites who perpetuate those canons) than the authors might hope. Thus, the dustcover image of paper on basalt may be only too accurate.

The first essay, by Peter Fitzpatrick, both elaborates on the idea of “dangerous supplements” and demonstrates how the technique can work through a deconstruction of “the supreme text of jurisprudence, H.L.A. Hart’s *The Concept of Law*” (p. 2). There is much to be said for Fitzpatrick’s critique of Hart, first, because it provides a reply to the perennial complaints of neo-positivists and liberals that they are not taken seriously by “crits”⁴ and second, because it provides an excellent illustration of the incoherence of liberal thought. However, although I thoroughly appreciated the actual exercise of desedimentation, I was left wondering as to the purpose. The danger with merely supplementing (even if it is critical) is that, in this case, positivism remains centre stage and the critic’s focus is retrospective to a text that was produced in 1961, even if it is one with a pervasive, continuing influence. As a result, Fitzpatrick has little to say about alternative interpretive structures and he provides little by way of guidance as to how we might proceed once we have witnessed the “self-destruction” (p. 3) of *The Concept of Law*.

This concern about what Fitzpatrick has to offer in place of Hart goes to some of the core thematic issues of the book: what role is the jurisprudential sceptic to play in a discipline that is premised upon and demands fidelity? Is the sceptic’s role simply one of resistance? Should there even be attempts at renewal? The way that Fitzpatrick constructs the first two sentences of the book—“Jurisprudence is the theorized prejudice of lawyers. Its proponents strive to ensure the viability of law and to maintain law’s authority” (p. 1)—suggests that jurisprudence and law

3. I am not suggesting here that legal historical analysis is not valuable, for certainly the past can tell us much about where we currently are and how we might proceed. Rather, my point is one of emphasis, and I think that in this book insufficient analysis is paid to the links between the past, present and future.

4. See for example Donald Galloway, “Critical Mistakes” in Richard Devlin, ed., *Canadian Perspectives on Legal Theory* (Toronto: Emond Montgomery, 1991) at 255, and my reply “Doubting Donald” (forthcoming).

are unsalvageable. However, in his conclusion, Fitzpatrick is somewhat more guarded, positing that the book's exploration of the "subversive implications of excluded knowledges for jurisprudence . . . is done not just to resist jurisprudence as it stands but to provide perspectives in its renewal" (p. 27). The problem with Fitzpatrick's own essay, indeed all the essays in the book, is that these strategies for renewal are dramatically underdeveloped. The deconstruction of the dominant voice without more does little to proactively enhance or make space for the voices of the excluded.

Now there is a good postmodern reason why Fitzpatrick et al. are wary of articulating what their proposed visions of renewal might be: to do so runs the risk of establishing "an alternative orthodoxy or general truth of law" (p. 30). This is a position with which I have much sympathy, for the dangers of creating new hierarchies of knowledge and power are pervasive and subtle. But I think that Fitzpatrick and his co-contributors get the balance wrong, for critique is not enough. Like it or not, law and jurisprudence are deeply entrenched components of the social psyche and we need more about how things could be otherwise and perhaps a less exclusivist focus on negation. All scholarship is a form of advocacy and it seems to me that if those who are progressive wish to persuade their audience (student or academic) to be similarly inclined, then it is necessary to provide indications of what could be. Modesty and self-restraint are commendable jurisprudential qualities, but they are not incompatible with a progressive politics of law that delineates reconstructive possibilities mediated by an openness to self-reflexivity. So, for example, in Fitzpatrick's case it is clear that he is concerned about the racist underpinnings and consequences of Hartian jurisprudence (pp. 16–17). Even a tentative indication of what an anti-racist jurisprudence and legal regime might look like may not only be more dangerous but also more persuasive.⁵

Besides, even if conventional liberal jurisprudence à la Hart does implode, even if Fitzpatrick is successful in his deconstruction, that does nothing necessarily to create space for "excluded knowledges" because the resultant jurisprudential void can easily be filled by the voices of the new right, as Thomson's essay on Hayek

5. One counter argument to my suggestion here is, given that Fitzpatrick is not a member of those communities who suffer the negative impact of racist structures, it is neither possible nor desirable for him to develop positive anti-racist programmes. Given the cultural construction of the "self-Fitzpatrick," for him to articulate the perspective of the other would be to assimilate or appropriate that "otherness." This doubt as to "imperial scholarship" [Richard Delgado, "The Imperial Scholar: Reflections on a Review of Civil Rights Literature" (1984) 132 *U. Pa. L. R.* at 561] is always a real concern, but there are possibilities. For example, one could float an idea, fully acknowledging—even highlighting—one's own status, that is developed in consultation with "the others," and is introduced into the discursive economy contingently and is admitted to be "up for grabs." Or, one could acknowledge or refer to proposals developed by "others" as to possible anti-racist strategies.

demonstrates. A commitment to resistance uncomplemented by proposals for renewal may be a commitment to infinite regression. There is certainly no shortage of liberal and conservative pretenders.

From the first essay in the book, I want to briefly turn to the last two essays, because similar concerns surface. The penultimate essay, "Time Out of Mind: An Introduction to the Semiotics of the Common Law" by Peter Goodrich and Yifat Hachamovitch analyzes the mythical origins and iconic discourse of the common law to highlight the historically contingent and socially constructed nature of some of the foundational elements of the common law of privacy, private property and liberty. Anthony Carty's "English Constitutional Law from a Postmodern Perspective" through a "deconstructive" interpretation of Hobbes, Hooker, Blackstone, Burke and Dicey argues that the received traditions of English constitutional law are pervaded by repressed contradictions.

While I learned a significant amount from both essays, I also found them frustrating. Both essays are, in a sense, jurisprudential archaeological digs which (through the use of different interdisciplinary tools) have unearthed significant aspects of the pre- and early history of the English legal tradition that have hitherto been buried. But the strongly historical and extremely textual focus of both essays leads me to ask, once again, in what way are they "dangerous" to the current theories and practices of law? To the extent that they demonstrate the contingent, pasted-together and political dimensions of the English legal tradition they are destabilizing of the dominant jurisprudential ideologies. But beyond this, I am puzzled. In relation to Goodrich and Hachamovitch's essay, what is the potential contribution of semiotics to a renewed jurisprudence? Are we to transcend the semiotics of law, or are we to construct new more progressive and inclusive legal symbols? Is there even a role for the subject "we"? In relation to Carty's essay, once we recognize through the prism of postmodernism that modern positivism is contradictory because it has failed to escape its premodern religious influences, what are we to do with this knowledge? Does it suggest ways in which our jurisprudence and law can be opened up to the religious diversity of societies such as England or Canada? Carty is silent on such issues. Once we unpack the unifying impulse that underlies the English constitutional heritage, what does that mean for those who want to confer legal and constitutional recognition on their differences? Again, Carty is silent on such issues.

However, Carty does provide some indication as to why he is silent on questions such as these. For him, the postmodern mandate is constrained: "The task of the postmodern critic is the easy one of tracing the pre-modern ghosts in cracked skeletons of modernity" (p. 198). Indeed, any form of normative reconstruction seems to be the furthest thing from Carty's mind for he argues:

The particular form of poststructuralism upon which I am engaged is simply to show, as a matter of historical fact, that the soul has gone out of a culture, that what we are studying are fossils, ghosts, dead memories (p. 184).

To which I would reply in the concluding words of Carty's own essay: "Why? What is the point?" (p. 206). Where and what is the danger? To push this concern further, drawing on Thomson's essay, I wonder if Carty's position is all that far removed from Hayek's proposition that we should "plan to resist all planning" (p. 91). And if we don't plan, are we likely to *do* anything? In short, Carty's position reminds me of the arch-deconstructionist, Derrida, and his critique of an essay by Walter Benjamin, that it is pervaded by a "terrible ethico-political ambiguity."⁶

The other essays in the collection provoke somewhat similar concerns, but less intensely. David Sugarman's "'A Hatred of Disorder': Legal Science, Liberalism and Imperialism" is an attempt to demonstrate how the traditional methodologies and parameters of legal thought in England were contingent upon the peculiar intellectual and institutional circumstances of the period 1850–1907, and how these have had a profoundly constraining impact upon current legal academic practice. While the essay ripples with insight, it is unfortunately quite unpolished. The introduction is patchy, the core of the essay tends, at times, to be assertive rather than persuasive or illustrative in tone, and the references, which took on a heightened significance given these other problems, required one to seek out another essay published in 1986. The problem was that at least one reference which I hoped to pursue—"Pick 1989" (p. 62)—could not be traced. Most of these problems stem from the fact that Sugarman's essay is a *mélange* of several other pieces he produced in the 1980s. Given the importance of Sugarman's earlier contributions, it is a pity that the synthesis is not smoother for the result could have been a very impressive contribution.

In spite of these criticisms, I found the essay extremely informative. It has certainly helped me to have a better understanding of why legal education and legal pedagogy, both in Britain and North America, have ended in the lamentable state in which they now find themselves. However, once again, Sugarman does little to provide guidance as to how we might escape the current predicament. Apart from a brief footnote mention to the reconstructive propositions of Roberto Mangabeira Unger (p. 65), Sugarman seems to agree with Robert Stevens that:

despite repeated efforts to break out of its iron cage, legal education was and is unlikely to transcend the profession-oriented forces that have controlled most law schools most of the time (p. 63).

The intriguing and more destabilizing questions, however, are why only "most schools most of the time"? Why not all schools all of the time? Which schools, in which conjunctures and by what means, have managed to deviate? These requests should not be understood as the typical reviewer's lament that a better book or

6. Jacques Derrida, "Force of Law: The Mystical Foundation of Authority" (1990) *Cardozo L.R.* 921 at 1025.

essay could have been written if different questions had been asked. Rather, they go to the core of what Sugarman is attempting to deal with, that is, an explanation of the hegemony of a certain politico-intellectual worldview. But hegemony is just that, hegemony, and not totality. Yet we are given little indication of why this worldview has not been total. If, however, Sugarman had attempted to address explicitly these issues, issues that are latent within the analysis that he does provide, we would have received a double benefit: not only would we have been provided with some inkling of ways to break out of the "iron cage" but also, the essay itself would have provided a more cogent explanation as to the nature of the contemporary problem.

An intriguing inclusion in the book is Alan Thomson's "Taking the Right Seriously: The Case of Hayek," which I found to be one of the best written, well organized and persuasive contributions. There are, however, two points that I do want to address. The first inquires: why should an essay on Hayek, even if it is by a leftist, be considered a dangerous supplement? Thomson provides two possible answers. The primary response is that Hayek helps us to recognize that "jurisprudential 'truths' cannot be divorced from general political and moral positions" (p. 94). This is undoubtedly true, but the same can be done with any of the mainstream liberal jurists, without committing rare and valuable critically dangerous space to the right.⁷ Thomson's second reason, that Hayek reveals "jurisprudence not as a superior, privileged and more profound truth about law, but as at best a merely systematic expression of what lawyers have discovered works in practice" (p. 95), could also just as easily be made by discussing "and thereby enlightening us about" left jurisprudence.

The reason this curious commitment of resources disconcerts me relates to a more serious comment on Thomson. Thomson, importantly in my opinion, points out that "Hayek's vision of life without meaning is becoming a self-fulfilling prophecy" (p. 93). One would have thought that, given Thomson's concern about Hayek's importance, this would generate the response from the progressive scholar "What is to be Done?" Surprisingly, this question does not even get asked. Having raised the possibility of a Hayekian dystopia, Thomson immediately drops it to "revisit" the much less pressing question of why Hayek has been ignored by mainstream jurisprudence.

The reason for this failure to engage is, once again, to be found in the self-imposed shackles of what might be called "postmodern idealism." Thomson wants to avoid rearticulating any "royal road to truth" (p. 95), for he prefers to simply "anticipate the 'post' modern" (p. 72). It seems to me that there are real problems here because, overcome by vertigo, the best that Thomson can come up

7. To be clear, I am not suggesting that the left should ignore the right, for undoubtedly that would be foolhardy given the current politico-historical context of both Britain and North America. Rather, my point is one of contextualism: in the British jurisprudential environment, liberalism and neo-positivism are the dominant discourses.

with is that jurisprudence should aspire to facilitate a variety of conversations based on gender, colonization, socialism and, it would seem on the basis of this essay, even Hayekian liberalism. This, however, ignores the reality that conversations are circumscribed and pervaded by power relations, and, in fact, ensures the victory of market place ideology, with its inherent logic of monopolization. Conversations cannot be enough for progressives, nor can we simply anticipate "the postmodern." Rather, "the postmodern"⁸ must be constructed, "indeed struggled for," and the role of a progressive jurisprudence is to make tentative and corrigible suggestions as to how, when and where we might proceed in the creation of these alternative socio-political and juridical relations and structures. Note, however, that this is not simple instrumentalism, nor does it require a faith in reason, nor an impulse to universalism, minimal or otherwise. Rather, a responsible postmodern jurisprudence can be suggestive of localized, particular and strategic interventions that seek to destabilize the power of those who have, and to make space for those who have not.⁹ A good example of what I

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8. One of the more problematic elements of several of the essays in the book is that although they espouse "postmodernism," very little is provided in terms of what the authors mean by this concept. Given that this is a contested concept, such a gap in the work leaves the reader unsure as to some of the key elements of the authors' positions. Clearly, this is not the occasion to attempt to map out the different themes, components and debates within postmodernism, but I want to be clear that mine is not a critique of postmodernism *per se*, rather it is a concern with some variants of it. It seems to me that one of the great achievements of postmodern analysis is that by highlighting the incommensurability of difference it helps us to recognize the inevitability of radical (in the Greek sense of "going to the root of") heterogeneity. In so doing in the context of law, politics and jurisprudence, it helps to decentre the perspective and normativity of whitist, Eurocentric male thought thereby creating space for the articulation of perspectives of those who, traditionally, have been the feared "other": women, people of colour, First Nations people, the dispossessed. For elaborations of further discussions of these points in relation to politics and law, respectively, see Iris Marion Young, *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1990); Martha Minow, *Making All the Difference* (Ithaca, N.Y.: Cornell University Press, 1990).
 9. It is obvious that I am still operating on the assumption that there is a role for "human agency" and some might object that this is premised on a humanistic/modernist conception of the self that is incompatible with postmodern conceptions of the fundamentally contingent self. It seems to me, however, that to recognize anti-essentialism and the relational self does not lead to an eradication or annihilation of the self, but rather that it is simply reconstituted to what Seyla Benhabib (following Adorno) calls a "situated self" ["Critical Theory and Postmodernism: On the Interplay of Ethics, Aesthetics and Utopia in Critical Theory" (1990) 11 *Cardozo L.R.* 1435 at 1445]. Because this situated self is located in the interaction of the multitude of relations, there are endless opportunities for such a self to participate . . . though there is no guarantee that its actions will be uncontroversial or effective. Those questions will depend upon a host of other variables. Indeed, I might go further to suggest that because the situated

am suggesting here is to be found in Gerry Frug's "The Ideology of American Law"¹⁰ which also adopts the idea of dangerous supplements but takes it much further so as to suggest alternatives to the power relations that pervade contemporary corporate and administrative structures.

Alan Hunt's essay, "Marxism, Law, Legal Theory and Jurisprudence" caused me less concern than some of the others, possibly because it is closer to my own heart. It is a well written, nicely structured overview of some of the key themes of marxist jurisprudence and is about as accessible as you can get in a jurisprudential regime dominated by liberal legalism. Moreover, Hunt is quite persuasive in his argument that a relational theory of law is explanatorily superior to other marxist approaches, and he deals succinctly with the issues of the relationship between law and ideology, law and state, economic relations and law, and law and class. Less persuasive, however, is his discussion of the relationship between marxism and gender, but this is hardly surprising given the complexity of the issue.

Hunt appears to be somewhat less smitten with the postmodern bug than all of the other contributors to the book. Though he is clear that marxist legal theory should play an "oppositional role" (p. 103) he also indicates that a more positive posture should be developed. For example, when he critiques commodity form theory, he rejects the idea of the "withering away of law" and suggests the need for socialist laws. Furthermore, at the end of the essay he points out that one of the problems with the regimes of the now defunct eastern bloc was that they lacked "democratic law." The problem is that Hunt provides little in the way of concrete analyses of what "socialist" or "democratic" laws might mean, but at least there appears to be something of the promised renewal. Nor would this have required another essay. Hunt has written several other articles on the role of rights discourse and brief illustrations from these could quite easily have been used to provide suggestions as to how we might proceed.¹¹ In this way, he could have taken us one step beyond vague aspirationalism to provide not just a supplement but the tentative outline of an alternative jurisprudential vision.

Carol Smart's essay, "Feminist Jurisprudence" also provides indications of reconstructive energy, guarded though they may be. The essay is an historical

self is in relation with other selves—i.e., that it is in part constituted by and itself constitutes such other selves—that one has responsibilities to them. In other words, because of its interdependence with others the situated self has a responsibility to engage.

10. (1984) 97 *Harvard L. R.* at 1277.

11. This is not to be interpreted as suggesting that I think that "rights discourse" is the appropriate way to go. Rights discourse itself can be deconstructed to highlight its ethnocentric bias, as Mary Ellen Turpel has demonstrated in her "Aboriginal Peoples and the Canadian Charter: Interpretive Monopolies, Cultural Differences" in Richard Devlin, ed., *Canadian Perspectives on Legal Theory* (Toronto: Emond Montgomery, 1991) at 503. My point is that at least Hunt is making some suggestions as to how we might, in the words of Spike Lee, "do the right thing."

overview and conceptual introduction to feminism that, in spite of its brevity, is remarkably comprehensive. Moreover, the essay combines the quality of being very accessible to those who are unfamiliar with feminism with cogent and clearly developed criticisms of feminist arguments with which Smart disagrees. Particularly helpful is her abandonment of the traditional categorizations of feminism, with the polarization these have often implied, and Smart's tentative development of a new conceptualization around the following approaches: master theory; experiential/epistemological; psychological/modes of reasoning; and social justice/harm.

But the essay is not without its problems. For example, Smart posits that Catharine MacKinnon's jurisprudence is "not concerned with concepts of equality or fairness" (p. 141). The latter perhaps not, but the concept of equality is pivotal to MacKinnon's argument. Also, I have concerns about the polarized way in which Smart constructs the feminist engagement with jurisprudence: "it has become clear that what is required is either a radical transformation or an abandonment of jurisprudence altogether" (p. 133). There is no indication of mere supplementation here. It's all or nothing. However much I might want to agree with Smart's ambitions, I think that in the current historico-political conjuncture a "radical transformation" in the foreseeable future is unlikely, but that "reconstructive deviationism"¹² is potentially feasible. The resort to the dualistic either/or may foreclose too many options that feminists may wish "perhaps even need" to pursue.

Moreover, it is still not clear to me what is to be the nature of the "radical transformation" that Smart calls for. Specifically, I found it quite challenging to figure out Smart's own position in relation to each of the subcomponents of her reconceptualization of feminist jurisprudence. After her criticisms, it was difficult to know what she had abandoned and what she had retained. For example, at times, she seems to indicate that there may be some "agreed feminist principles" (p. 156) "though they remain unspecified" and yet simultaneously, she suggests that these might be impossible given the profound differences between women on the basis of their race, class and context. This sensitivity to the key differences between women, in turn, leads Smart to suggest that perhaps law and jurisprudence are part of the problem of domination and that the quest for feminist jurisprudence is mistaken because it retains law as a central focus. My response to this is twofold. First, in relation to every social practice that feminists confront there are likely to be profound conflicts.¹³ This however, cannot be a reason for abdication, elsewise there would be no location for feminist activism. Second, while we

12. See more generally, Roberto Mangabeira Unger, *Politics* (New York: Cambridge University Press, 1987). For a suggestion of the utility of deviationism to feminism, see my "On the Road to Radical Reform" (1989) 29 *Osgoode Hall L. J.* at 641.

13. See, for example, Marilyn Hirsch and Evelyn Fox Keller, eds., *Conflicts in Feminism* (New York: Routledge, 1990).

should be careful not to fetishize law, it would equally be a mistake to abandon it because, as the essays by Goodrich and Hachamovitch and Carty demonstrate, law is both symbolically real and everywhere. The trick is to know when to resist, when to ignore and when to renew law. One task of progressive legal theory is to help us make those necessarily local and strategic choices.

Now the contributors, or at least some of them, may wish to resist my request for paying greater attention to the development of strategies of renewal. They might want to argue that such a plea domesticates and deradicalizes the fundamentally challenging insights that postmodernism and deconstruction pose for both law and jurisprudence. They might suggest that my desire for reconstructive insights is born of the hubris of the jurisprudential discipline which seeks to translate and thereby subordinate and co-opt all other disciplines to its agenda. Fitzpatrick raises this concern (but does not fully develop it)¹⁴ in the opening paragraph of his essay, when he quotes Twining's concern that "the essential nature of the process is for someone to venture forth from the intellectual milieu of the law and to come back with spoils from elsewhere and to present them in assimilable form" (p. 1).

This is a legitimate and cautionary concern, but it seems to me that the question of "what is to be done" is not primarily a jurisprudential question. Rather, it is an ethico-political one, and the answer might be, as Carol Smart points out in her book *Feminism and the Power of Law*¹⁵ but not so clearly in her essay, that in certain contexts you may wish to use law and jurisprudence, while in other circumstances you may not. Thus, the proposition that greater emphasis needs to be focused upon what those who are progressive might do after the decoding does not necessarily imply that legal agendas are essential. Nonetheless, we must not forget that law plays an extremely important constitutive role in the interplay of contemporary social relations, and in the same way as it did not "wither away" in pseudo-marxist societies, I doubt if it will "wither away" just because it can be deconstructed. Moreover, I believe that there is a real danger in being too deferential to postmodern thought, because to do so may, paradoxically, result in installing it as a new "master narrative," unresponsive and unaccountable. By inquiring as to what postmodernism may have to offer in facilitating the creation of alternative, radically heterodox, socio-political alternatives "in which I believe law will be at least a part," a double purpose is reserved: first, postmodernism's own potential for self-indulgence is destabilized; and second, we might just find that it does have something to contribute.¹⁶ At the very minimum, there is no harm in asking.

14. For a much more elaborate version see Pierre Schlag "Le Hors de Texte C'est Moi" (1990) 11 *Cardozo L.R.* at 1631.

15. London: Routledge, 1989.

16. For examples of several efforts within literary criticism which pursue such an approach (though not always successfully) see Jonathan Arac, ed., *Postmodernism and Politics* (Minneapolis: University of Minnesota Press, 1986); Terry Eagleton, *Literary Theory:*

The problem with *Dangerous Supplements* is that despite its subtitle—*Resistance and Renewal in Jurisprudence*—in the main, it does not ask such questions. As a result, the title promises more than the book produces. Despite the fact that the essays are dangerous in that they do much to challenge the dominance of the neo-positivist mindframe of so much contemporary jurisprudence, for my taste they are not dangerous enough, because insufficient attention is paid to renewal.

An Introduction (Minneapolis: University of Minnesota Press, 1983); Frederic Jameson, *The Political Unconscious: Narrative as a Socially Symbolic Art* (Ithaca: Cornell University Press, 1981); and Frank Lentricchia, *Criticism and Social Change* (Chicago: University of Chicago Press, 1983).