Spaceball (Or, Not Everything That's Left is Postmodern)

Dennis W. Arrow

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Spaceball (Or, Not Everything That’s Left is Postmodern

Dennis W. Arrow 54 Vand. L. Rev. 2381 (2001)

Given law-school postmodernism’s epistemo/ontology of juvenile anti-realist agnosticism, its commitment to Gadamerian and/or Derridean notions of linguistic indeterminacy, its monomaniacal dedication to centrifugal end-justifies-the-means Lefty politics, its abhorrence of commonly recognized conceptions of neutral principle, its concomitant disrespect for the very notion of truth, and its inextricably intertwined obsession with names and propensity for linguistic doublespeak, Professor Arrow confesses to initially wondering what it might “mean” to take anything uttered by a postmodernist “literally,” or at “face value.” But undaunted by that “paradox,” Professor Arrow not only takes up Feldman’s challenge to “critique postmodernism on its own terms” (by playing a pantomime Spaceball game with Feldman), but also critiques it logically—and (gasp!) pragmatically (not “pragmatically”). Maintaining the tonal and stylistic “playfulness” to which law-school pomoers profess to aspire (but in no known instance have achieved), Professor Arrow assures the reader that there will be numerous interesting (not “interesting”) plot twists along the way. In the process, Professor Arrow also offers speculation about the way in which the postmodernists’ ultimate contribution to American law schools is likely to be assessed—but cautions (as is appropriate under the circumstances) that you’ll have to find it in a footnote.
Spaceball (Or, Not Everything That's Left is Postmodern)

Dennis W. Arrow*

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* Professor of Law, Oklahoma City University. As always, I express my appreciation to Ju-Chuan Arrow, my colleague and “very special one”—but especially in this instance for suggesting the “Spaceball” name. I also express my appreciation to my colleague and friend Paula Dalley for her always-valuable comments, and to Professor Stephen Feldman for laying it all on the line.

2381
JENNY JONES: Boy, we have a show for you today!
Recently, . . . Richard Rorty made the stunning declaration that nobody has "the foggiest idea" what postmodernism means. . . .
Today we have with us . . . a recovering postmodernist . . . who believes that his . . . career and personal life have been irreparably damaged by the theory, and who feels defrauded by the academics who promulgated it. He wishes to remain anonymous, so we'll call him "Alex."
Alex, as an adolescent, before you began experimenting with postmodernism, you considered yourself—what?
Close shot of ALEX.
An electronic blob obscures his face. . . .
ALEX (his voice electronically altered): A high modernist. Y'know, Pound, Eliot, Georges Braque . . . I had all of Schönberg's 78's.
JENNY JONES: And then you started reading people like Jean-François Lyotard and Jean Baudrillard—how did that change your feelings about your modernist heroes?
ALEX: I suddenly felt that they were, like, stifling and canonical.
JENNY JONES: We have some pictures of young Alex. . . .
We see snapshots of 14-year-old ALEX reading Gilles Deleuze and Felix Guattari [ ] . . . The AUDIENCE oohs and ahs.
ALEX: We used to go to a friend's house after school . . . and we'd read, like, Paul Virilio and Julia Kristeva. . . .
JENNY JONES: . . . Why?
ALEX: I guess—to be cool . . .
JENNY JONES: And do you remember how you felt the very first time you entertained the notion that you and your universe are constituted language—that reality is a cultural construct, a "text" whose meaning is determined by infinite associations with other "texts"?
ALEX: Uh, it felt, like, good. I wanted to do it again.
—MARK LEYNER1

"I have a problem," Maddy explained, and it turned out to be a moral problem. Was Concepcion REALLY the best we could do? Yes, she was Chicana. Yes, she was lesbian. Yes, she knew her Barthes. But Barthes? Really? Wasn't he getting just a little passe? Wasn't there some danger that in the life and pursuit of theory,4 Roland Barthes—and with him, poor Concepcion, for whom she felt deep concern—was about to be left behind? Part of the fascination of literary discourse today, Maddy explained—turning toward the fools, who could not be expected to know this—was the short-lived nature of theory itself. Styles in theory were changing faster than

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2. See generally Dennis W. Arrow, Pomobabble: Postmodern Newspeak and Constitutional "Meaning" for the Uninitiated, 96 Mich. L. Rev. 461, 659 (1997) [hereinafter Arrow, Pomobabble] (defining "theory"—in Pomoland: "'[E]motion' homogenized with 'democratic breakfast' [Foucault Flakes] . . . 'rhetoric' . . .; but maybe if we . . . repetitively and cumulatively incant . . . 'theory' enough . . ., the 'uninitiated' will think it means theory, and 'we'll' gain not only 'power' but unearned academic 'self(?)-esteem'; see generally 'the Wizard'; all variants obsolete.".).
styles in clothing. That's what made theory so exciting, as Eleanor Tuke herself so often said. Here today, gone tomorrow. Could Concepcion keep up? Or was she doomed to be merely a Barthes clone?

—JOHN L'HEUREUX

Rehash. Rehash.

—RULES FOR POSTMODERNISTS

I. INTRODUCTION

It should come as no surprise that “postmodernism” had a substantial (if mostly transitory) appeal to some law professors during the '90s. It came from humanities departments. It was French.
For the increasingly utopian “New-Man” academic Left that had found its premises empirically falsified by the implosion of this planet’s Marxist utopias, pomo’s mystical strains provided the same emotional comfort that mysticism has provided to the vanquished after other cataclysmic intellectual or political events.

But cf. LEO N. TOLSTOY, WHAT IS ART? 36 (Aylmer Maude trans., Liberal Arts Press 1960) (1896) (“[H]owever cloudy the Germans may be, the French, once they absorb the theories of the Germans and take to imitating them, far surpass them in uniting heterogeneous conceptions into one expression and putting forward one meaning or another indiscriminately.”). See generally GEORGE DU MAURIER, TRILBY 41 (Peter Alexander ed., W.H. Allen 1982) (1894) (“Paris! Paris! Paris!!! The very NAME had always been one to conjure with . . . .” (emphasis added)); Arrow, Pomobabble, supra note 2, at 528 n.29 (noting that in the pomo-spoofing academic cartoon Breakfast Theory, the motto of Foucault Flakes cereal is “It’s French, it must be good.”).

7. See, e.g., Robert Post, Lani Guinier, Joseph Biden, and the Vocation of Legal Scholarship, 11 CONST. COMMENT. 185, 192-93 (1994) (“The community of legal academics seems to have turned en masse to higher lawmaking. There is an ever-growing predominance of utopian scholarship in the law reviews; within elite schools utopian accents have become almost de rigueur.”).


9. See, e.g., Arrow, Pomobabble, supra note 2, at 491-502 n.24 (exploring the mystical influences on—and having just a wee bit of fun at the expense of—our postmodern hero, Saint Derrida); cf. id. at 612 n.45 (noting the canonization of Saint Foucault and the deification of Roberto Unger).

10. Although mysticism has ancient roots in Judaism, see, e.g., DAVID R. BLUMENTHAL, UNDERSTANDING JEWISH MYSTICISM 5 (1978) (tracing the history of first-millennium Merkabah mysticism); DANIEL C. MATT, THE ESSENTIAL KABBALAH 4-5 (1995) (describing the mid-first millennium Sefer Yetzirah, which described God’s creation of the world by means of the twenty-two letters of the Hebrew alphabet and the ten sefirot); BLUMENTHAL, supra, at 101 (describing thirteenth- and fourteenth-century Zoharic Kabbalism), the explosive spread of Kabbalistic mysticism following the expulsion of the Jews from Spain in 1492, see, e.g., MATT, supra, at 13-15, furnishes a paradigmatic historical example. Closer to home, an additional example may be found in the Ghost Dance religion promulgated by the Paiute Messiah Wovoka in the late 1880s, after the cataclysmic wars with and culturally-limiting reservation policies imposed by the United States on Indian tribes in the 1870s and 80s threatened the annihilation of traditional ways of life. Cf. James Mooney, The Ghost Dance Religion and the Sioux Outbreak of 1890, in 2 FOURTEENTH ANNUAL REPORT OF THE UNITED STATES BUREAU OF ETHNOGRAPHY 1892-93 (1896), reprinted as JAMES MOONEY, THE GHOST DANCE RELIGION AND WOUNDED KNEE (Dover Publications 1973); John Rhodes, An American Tradition: The Religious Persecution of Native Americans, 52 MONT. L. REV. 13, 23-27 (1991). See generally RICHARD FARIÑA, BEEN DOWN SO LONG IT
But most importantly for would-be Messiahs not content with the unmessianic, unheroic roles assigned to mere law professors in American culture, pomo provided a perceived pathway to power: a "method" for "proving" whatever you liked with whatever you had.

Pretty heady stuff. Imagine a phalanx of plaintiffs' lawyers armed with magical "postmodern doodads" packed away in their Halliburton Zeroes. Or how 'bout a really haunting spectre: a cadre of "visionary" con law professors swarming the steps of the Big Court (their law-review-article- and doodad-stuffed briefcases more purposively downscale), ready to "prove" the constitutional necessity of... well, anything consistent with the Leftist Vision.

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3. Because pomo's is ultimately a "there are no rules" method, calling it a "method" must induce a touch of vertigo (not to mention suspension of disbelief) in the rational. But cf. RULES FOR POSTMODERNISTS, supra note 4, No. 74 ("Treat rationality as just another tradition."); id. No. 36 ("Maneuver between pastiche and mishmash."); id. No. 314 ("Bullshit.").


5. Since pomo (at least before its capture by Deconstruction) allowed you to "prove" (or "disprove") anything, of course, it wouldn't necessarily have had to be a Leftist vision. Given the Leftist capture of the American legal academy, though, there weren't enough conservative law professors to matter. See Dennis W. Arrow, "Rich," "Textured," and "Nuanced": Constitutional "Scholarship" and Constitutional Messianism at the Millenium, 78 TEX. L. REV. 149, 164-65 & nn.84-86 (1999) [hereinafter Arrow, Messianism]; J.M. Balkin, What Is a Postmodern Constitutionalism?, 90 MICH. L. REV. 1966, 1967, 1985 (1992); Tushnet, supra note 8, at 2325 n.1. In any event, the Lefties almost always have the Bigger Visions, and the totalizing politics (and Master Narrative) of class-struggle, neo-Marxist, power-paradigm-based Deconstruction has now fully enslaved purely theoretical law-school postmodernism. Cf. Stephen M. Feldman, Made for Each Other: The Interdependence of Deconstruction and Philisophical Hermeneutics, 26 PHIL. & SOC.
But the “postmodern” touchstones include such seemingly disparate (and facially, though perhaps not universally, unappealing) elements as:

juvenile linguistic, ontological, and epistemological agnosticism[,] depression, nineteenth century romanticism, unfulfilled and undifferentiated emotional yearnings, water symbolism, Death-obsession, mysticism, reliance on un tethered rhetoric, rejection of nature, putative self-abnegation, distortion of history, rejection of morality (while laying claim to it), claiming the mantle of pragmatism (while falling heels over head into the abyme of what John Dewey condemned as “sentimental gush”), obliviousness to secondary consequences, professed abhorrence of Manichean dualities (while applying dualistic thinking to condemn everything the postmodernists don’t like), and from wordplays and morphing to pop culture and TV.15

Wherein could lie the power of that? Depression?16 (Perhaps psychologically appealing to some, and perhaps a contributing cause, but a major strength? Unlikely.) Death obsession?17 (Same comments.) Ecstatic romanticism?18 (Same comments.) Nostalgie pour la boue?20

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15. Arrow, Messianism, supra note 14, at 155-56 (footnotes omitted).
16. Cf. Arrow, Pomobabble, supra note 2, at 521-24 n.29 (speculating on the phenomenon); id. at 584 n.39 (contemplating, inter alios, postmodernist icon Julia Kristeva). See generally FYODOR DOSTOEVSKY, DEMONS 387 (Richard Pevear & Larissa Volokhonsky trans., Vintage Classics 1995) (1872) (quoting Fyodor, the Urgent Marxist revolutionary: “Add some extra gloom, that’s all, no need for anything else ... .”); JULIA KRISTEVA, BLACK SUN 5-6 (Leon S. Roudiez trans., Columbia Univ. Press 1989) (1987) (“[T]here is meaning only in despair.”); ELIZABETH WURTZEL, PROZAC NATION 50 (1995) (“If I can just get in touch with the blue-collar blues[,] ... I will be a ... Marxist worker person, alienated from the fruits of my labor. That is all I want in life: for this pain to seem purposeful.” (emphasis added)).
17. See, e.g., Goth Talk, Saturday Night Live (any episode) (spoofing the Gothic-depression pop-culture phenomenon). See generally KRISTEVA, supra note 16, at 33 (speculating that it may all pretty much be about chemicals).
18. See generally Arrow, Pomobabble, supra note 2, at 536-38 n.29 (speculating on the phenomenon); id. at 493 n.24 (contemplating, inter alios, proto-postmodernist Martin Heidegger); id. at 498 n.24 (exploring the relationship between Death-obsession and apocalyptic Visionarianism).
19. See generally id. at 513-16 n.29 (contemplating several incarnations of the phenomenon); id. at 573-92 n.39 (noting that the phenomenon has nothing to do with love); id. at 650-55 n.50 (noting that the phenomenon has nothing to do with romance).
20. Cf. JOSEPH CONRAD, HEART OF DARKNESS 24 (New York, St. Martin’s Press 1989) (1899) (“The smell of mud, of primeval mud, by Jove! was in my nostrils . . . .”); Arrow, Pomobabble, supra note 2, at 532-34 n.29 (contemplating primordial mud, tears, and feet); infra note 39 (quoting Matei Calinescu on the relatedness of decadence-fascination to primitiveness-fascination,
(Same phenomenon, same comments.) Rejection of the Enlightenment? (Tough to market *that* one to non-New Age Space Cadets.) It couldn’t be any of those.

Perhaps the juvenile epistemological and linguistic agnosticism?21 (Maybe a bit: People who don’t know what they are, where they are, and can’t communicate seem to take orders pretty well.) Rejection of nature? (Getting warmer: a real confidence-builder for New Man social engineers.) “Pragmatism” unconcerned with those tedious consequences— which might otherwise brake the Vision? (Warmer still):

Winston[]... mind slipped into the labyrinthine world of doublethink. To know and not to know, to be conscious of complete truthfulness while telling carefully constructed lies, to hold simultaneously two opinions which canceled out, knowing them to be contradictory and believing in both of them, to use logic against logic, to repudiate morality while laying claim to it, to believe that democracy was impossible and that the Party was the guardian of democracy, to forget whatever it was necessary to forget, then to draw it back into memory again at the moment when it was needed, and then promptly to forget it again... 24

and Stanley Fish perhaps applying Calinescu’s observation to the professoriate). But cf. infra note 56 (quoting Friedrich Nietzsche on submission).

21. See, e.g., Stephen M. Feldman, *An Arrow to the Heart: The Love and Death of Postmodern Legal Scholarship*, 54 VAND. L. REV. 2351, 2363 (2001) (“[M]odernists have never successfully explained how we manage to bridge the gap between the modernist self... and the external objective world.”). (Remember “grocking deeply,” see ROBERT HEINLEIN, STRANGER IN A STRANGE LAND 22 (1961), on that one in fifth grade? The best I came up with then—which in hindsight may not have been too bad— was “gusto ergo sum” (no gusto, no sum.) Compare Feldman, supra, at 2363 (“[P]ostmodernists maintain that... [t]ruth and knowledge exist not because of correspondence with objective reality but rather because we exist within communal and cultural traditions that enable us to communicate with each other.”), with GEORGE ORWELL, NINETEEN EIGHTY-FOUR 281 (1949) (“Winston worked it out. ‘If he thinks he floats off the floor, and I simultaneously think I see him do it, then the thing happens’. ... All happenings are in the mind. Whatever happens in all minds, truly happens.”).

22. Arrow, Pomobabble, supra note 2, at 526 n.27 (quoting a character in the 1991 movie Slacker—a student-generated cinematic spoof of pomo).

23. See, e.g., Hilary Putnam, *Afterword to Symposium on the Renaissance of Pragmatism* [?] in American Legal Thought, 63 S. CAL. L. REV. 1911, 1914 (1990) (emphasis added): [P]ragmatism [?] is an attempt to walk a knife edge. It’s very easy for the old [?] pragmatism to fall off on one side or the other. Pragmatism stressed fallibilism. [Charles] Peirce said once... that if he had to choose one label to apply to himself, he’d choose the label “fallibilist.” And the fallibilist side of pragmatism has been stressed here a great deal. *But you fall off the knife edge on one side if you only say that pragmatism is fallibilist.* The paradox [doublethink?] is that pragmatism is also intensely anti-skeptical. YOU ONLY GET THE FLAVOR OF THE MOVEMENT IF YOU TRY TO WRAP YOUR MIND AROUND THE IDEA OF BEING FALLIBILISTIC AND ANTI-SKEPTICAL AT THE SAME TIME. []


24. ORWELL, supra note 21, at 36.
So like the Marxists who conveniently forgot their own historical situatedness when deprecating as historically situated the political observations of non-Marxists (the Marxists "saw further," don'cha know), doublethinking Pomoites got to reject morality while claiming it, have their "pragmatism" while being unaccountable to consequences, reject dualities while demonizing whatever they didn't like, and a whole lot more. "Prove" whatever you'd like with whatever you've got! There are No Rules! What fun! It's . . . Spaceball! But fun? Out-of-character for the dead-serious Pomo Corps, at least in millennial American law schools, where the prospect of World Redemption (ostensibly through Saving the Marginalized) rendered such things small beer. Power? You bet. And what was

25. See, e.g., Tushnet, supra note 8, at 2325-26 (footnote omitted):
"In today's legal academy, the critique of normativity is associated with the left." The preceding sentence, which I have constructed to summarize the starting point of this essay, is both largely true and arguably incoherent. The incoherence occurs because describing a position as "the left" connotes values like egalitarianism, which are arguably normative . . . . The conclusion suggests that the best course for critics of normativity may lie in foregoing any attempt to support their leftist inclinations through rational arguments . . . .

26. See Arrow, Pomobabble, supra note 2, at 476 (defining "antifoundationalist pragmatism"—in Pomoland: "feint: see 'concealment' 'mysticism,' 'natural law;' see also 'doublethink'"); J.M. Balkin, The Top Ten Reasons to Be a Legal Pragmatist, 8 CONST. COMMENT. 351, 361 (1991) ("Being a legal pragmatist means never having to say you have a theory."); id. ("You can also be a . . . civic republican . . . a feminist . . . a deconstructionist . . . a crit . . . or . . . anything else."); Arrow, Pomobabble, supra note 2, at 627 (defining "whopee pragmatism": "whatever you'd like it to be . . . (ever played poker with the whole deck consisting of jokers?)").

27. Cf. id. at 505 (defining "dismissive"—in Pomoland):
adj: see "mean-spirited;" see also "cavalier," "contemptuous," "insensitive," "judgmental," and "unsselfcritical;" where those "signs" pack insufficient "emotional" wallop, "we" cavalierly, contemptuously, dismissively, insensitively, judgmentally, and mean-spiritedly "deploy" "racist," "sexist," "hegemonic," "hierarchic," "blah blah blah," promiscuously; see generally "adjectives" "frame"; "education," "legal education" "adjectives;" "Heidegger" "adjectives;" "adjectives" "natural law;" "adjectives" "logic;" "adjectives" "reason;" "adjectives" "crimestop;" "repetitive and cumulative incantation" "adjectives" "legal authority;" all variants obsolete.

28. See HUNTER S. THOMPSON & RALPH STEADMAN, THE CURSE OF LONO 72 (1983); J.M. Balkin, Understanding Legal Understanding: The Legal Subject and the Problem of Legal Coherence, 103 YALE L.J. 105 (1993); cf. Peter Gabel & Duncan Kennedy, Roll Over Beethoven, 36 STAN. L. REV. 1, 1 (1984)["Duncan [to Peter]: You are betraying our program by conceptualizing it."].

29. See generally Arrow, Messiahian, supra note 14, at 163-64 (exploring the mal humor phenomenon); Arrow, Pomobabble, supra note 2, at 650-56 n.50 (same).

30. See, e.g., Arrow, Pomobabble, supra note 2, at 527 n.29 (translating by cross-referencing elsewhere-defined terms from the reliably lefty Society of American Law Teachers to attend one of its conferences):
[A] central mission of [SALT] has been the effective Education ["education"?] of law students to become progressive ["progressive"?], socially conscious[?] lawyers who care[?] and think critically ["critically"?] about the effect of law [apparently, law] . . . . Diversity ["diversifying"?] law school . . . faculties and trans-
that thing about rhetoric? How else could "pragmatism" come untethered from consequences? How else could this overripe bouil-labaisse be marketed?

Historically, “He who controls the language rules the world” has been variously attributed to either of the two Uncle Joes (Goebbels and Stalin), with “If you repeat a lie often enough people will believe it” attributed, inter alios, to Uncle Adolf.31 Though those inspiring Big Lie postulates hadn’t quite gotten the job done before (like everything else in pomo, its rhetoric-reliance was derivative), you know the old Lefty refrain: “This time we’re gonna get it right!” [It hasn’t seemed to work lately for Red Sox fans, either, but that’s another article . . . ] And anyway, what else was there? Empirical results? (Falsified.) Reason? (Too Enlightenment, and inevitably counterproductive.32) Threats? (No extra-classroom power.) Tears?
(Played out.\textsuperscript{33}) Repetition? (Maybe—for whatever good it could do.\textsuperscript{34}) What else? Imminentizing the eschaton?\textsuperscript{35}

33. See Martha Minow, Surviving Victim Talk, 40 UCLA L. REV. 1411, 1428 (1993) ("The very benefit of claiming victimhood—securing attention—can be undermined by overuse of the claim."); cf. WURTZEL, supra note 16, at 104 (We're sorry, the number you have dialed is no longer in service."). See generally Arrow, Messiahism, supra note 14, at 167-60 (commenting on the "narrative," or "agony tale" phenomenon in legal "scholarship"); Arrow, Pomobabble, supra note 2, at 533-34 n.29 (quoting Sheryl Crow, Don DeLillo, Fyodor Dostoevsky, George DuMaurier, T.S. Eliot, Robert Heinlein, John L'Heureux, Vladimir Nabokov, and Thomas Pynchon on tears).

34. Compare Julius Getman, The Price of a Chair, 46 J. LEGAL EDUC. 456, 462-63 (1996) (describing a law-school faculty meeting contemplating the creation of a Mussolini Chair at Texas State) (emphasis added):

Heller was one of our acknowledged stars. . . . He was a part of the critical legal studies movement and was frequently invited to attend conferences on law and various social science disciplines. He was cynical about the rule of law. . . . Most of us envied and admired him.

Heller was not eloquent in the way older faculty often were. He spoke hesitantly, . . . sometimes repeating himself. . . . [B]ut he could be surprisingly effective . . . .\textsuperscript{[1]}

with CONRAD, supra note 20, at 20-21 (emphasis added):

[T]here was only an indefinable, faint expression on [the manager's] lips, something stealthy—a smile—not a smile. . . . It came at the end of his speeches like a seal applied on the words to make the meaning of the commonest phrase appear absolutely inscrutable. . . . He had no genius for organizing, for initiative, or for order even. . . . His position had come to him—why? . . . He was great by this little thing that it was impossible to tell what could control such a man. He never gave this secret away. \textit{Perhaps there was nothing within him.} Such a suspicion made one pause—for out here there were no external checks. . . . He . . . repeated several times that the situation was "very grave, very grave."

\textit{See generally} A.M. Sheridan Smith, Translator's Note to MICHEL FOUCAULT, THE BIRTH OF THE CLINIC, at vii (A.M. Sheridan Smith trans., 1973) ("One of the characteristics of Foucault's language is his repeated use of key words."); \textit{supra} note 4 (quoting Andrew Boyd, Yevgeny Zamyatin, and Stephen Feldman on repetition); Arrow, Pomobabble, supra note 2, at 646 (defining "repetitive and cumulative incantation"—in Pomoland).


Though they don't admit it, the Empty Ones now exiled in the Zone, Europeanized in language and thought, split off from the old tribal unity, have found the why of it just as mysterious. But they've seized it, as a sick woman will seize a charm. They calculate no cycles, no returns, they are in love with the \textit{Glamour} of a whole people's suicide—\textit{the pose}, the stoicism, and the bravery.

It was obviously time to take a lesson from Martin Heidegger\(^{36}\) and Big Brother,\(^{37}\) and to create a language.\(^{38}\) Since American pomo was hatched (where else?) in the elite universities\(^{39}\) (Derrida’s Johns Hopkins speech, the Yale comp lit department and all that), there was a ready-made lefty politics available to operate symbiotically with the linguistic, epistemological, and ontological uncertainties of the impressionable.\(^{40}\) Taken together, the political and pseudophilosophical\(^{41}\) (but essentially mystical\(^{42}\)) jargon could make

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36. See infra note 49 (analyzing Heidegger’s Third Reich rhetoric); infra note 261 (same).
37. See infra text accompanying note 48 (quoting George Orwell on the utility of Newspeak).
38. Cf. Balkin, supra note 14, at 1976 (“Knowledge is a set of language games, as opposed to a set of true beliefs . . . .”); RULES FOR POSTMODERNISTS, supra note 4, No. 334 (“Play language games—your identity depends on it.”) (emphasis added)).
39. Compare MANN, supra note 30, at 35-37:
   . . . [S]omething still hung on the air from the spiritual constitution of the men of the last decades of the fifteenth century: a morbid excitement, a metaphysical epidemic latent since the last years of the Middle Ages. This was a practical . . . modern town.—Yet no, it was not modern, it was old. . . . [H]ere one could imagine strange things: as for instance a moment for a children’s crusade might break out; a St. Vitus’s dance; some wandering lunatic with communist visions, preaching a bonfire of the vanities; miracles of the Cross, fantastic and mystical folk movements. . . .
   The stamp of old-world, underground neurosis which I have been describing, the mark and psychological temper of such a town, betrays itself in Kaiser-saschern . . . .

with, e.g., The College Pump, HARV. MAG., May-June 2001, at 92:
   At 8:45 a.m. on February 20 a Wiccan priestess led the daily service of morning prayers in Memorial Church. Grove Harris, M.Div. ’96, is otherwise administrative assistant of the Pluralism Project at Harvard. . . . Reverend Professor Peter J. Gomes, Pusey minister in the Memorial Church, said that Harris is “the first Wiccan priestess of whom we’re aware.”

See generally supra note 20 (contemplating primordial mud, feet, and nostalgie pour la boue); MATEI CALINESCU, FIVE FACES OF MODERNITY 164 (Duke Univ. Press, rev ed. 1987) (1977) (“Renan is probably the first to have been aware . . . . that the fascination with decadence and the apparently contradictory fascination with origins and primitivism are actually two sides of one and the same phenomenon.”); Larissa MacFarquhar, The Dean’s List, NEW YORKER, June 11, 2001, at 62, 64 (quoting Stanley Fish):
   The essence of it all is contained in the very first aphorism I ever formulated, in 1964 as I watched my colleagues at Berkeley turn from abasing themselves before deans and boards of trustees to abasing themselves before students—Academics like to eat shit, and in a pinch, they don’t care whose shit they eat.
   “Most deeply to my regret.” DUMAURIER, supra note 6, at 67; cf. id.: For I had fondly hoped it might one day be said that whatever my other shortcomings might be, I at least had never penned a line which a pure-minded young British mother might not read aloud to her little blue-eyed babe as it lies sucking its little bottle in its little bassinet.
   Fate has willed it otherwise.

41. Cf. RULES FOR POSTMODERNISTS, supra note 4, No. 115 (“CONFER PHILOSOPHICAL STATUS ON LINGUISTIC GIMMICKS.”) (emphasis added)).
42. Pomo’s subjectivist and anti-realist epistemology traces back in haec verba to the Talmud and beyond. Compare, e.g., Balkin, supra note 14, at 1976 (“The Cartesian cogito becomes transformed: Instead of ‘I think therefore I am,’ we have ‘I think as I am.’”), with WURTZEL,
goofy ideas seem plausible (to some\textsuperscript{43}). And by \textit{reversing} the ordinary meaning of words in the jargon (with \textit{premodern} mysticism, its emotional baggage, and related class-struggle nostalgia becoming \textit{postmodernism}, words like "rich," "textured," and "nuanced" signifying slavish neo-Marxist linear thinking, "democratic" meaning anything but \textit{democratic},\textsuperscript{44} and \textit{différence} meaning—well, who cared?\textsuperscript{45}), ideas long empirically falsified could (so the theory went) be made to at least \textit{sound} appealing at first blush. The jargon was just obscure enough to provide the possibility of "cranking it up" defensively whenever anyone might suspect that the Emperor might be buck naked; the idea would then be to fool the gullible into thinking that some profound thoughts were there, just beyond the listener's (or reader's) comprehension.\textsuperscript{46} And from there, George Orwell could fill in the details:

The purpose of Newspeak was not only to provide a medium of expression for the world-view and mental habits proper to devotees of Ingsoc,\textsuperscript{47} but to make all other thoughts impossible. It was intended that when Newspeak had been adopted . . . and Oldspeak forgotten, a heretical thought . . . should be literally unthinkable. . . . This was done partly by the invention of new words, but chiefly by eliminating undesirable words and by stripping such words as remained of unorthodox meanings, and so far as possible of all secondary meanings whatever. . . . No word that could be dispensed with was allowed to survive. Newspeak was designed not to extend but to diminish the range of thought. . . .

\textsuperscript{supra} note 16, at iv ("Long before Derrida and deconstruction, the Talmud said . . . 'We do not see things as they are. We see them as we are.'"). \textit{See generally} MICHAEL DEVITT, REALISM AND TRUTH, at vii (2d ed. 1991) ("There is no sign that the 'sociologists of knowledge' are anywhere near distinguishing epistemology from metaphysics.").

\textsuperscript{43.} Cf., e.g., Salman Rushdie, \textit{Reservoir Frogs}, NEW YORKER, Sept. 23, 1996, at 104 ("[O]bscurity is a characteristic of objects of desire."); GERTRUDE STEIN, EVERYBODY'S AUTOBIOGRAPHY 75 (1937) ("[T]he Germans could always convince the pacifists to become pro-German. That is because pacifists are such intelligent beings that they could follow what ANY ONE is saying." (emphasis added)); ORWELL, \textsuperscript{supra} note 21, at 211 ("What most oppressed Winston was the consciousness of his own intellectual inferiority. . . . O'Brien was a being in all ways LARGER THAN HIMSELF. . . . It must be he, Winston, who was mad." (emphasis added)).

\textsuperscript{44.} \textit{See} Arrow, \textit{Messianism, \textsuperscript{supra} note 14, at 150 n.3.}

\textsuperscript{45.} It was good enough for Derrida, so it better have been good enough for you.

\textsuperscript{46.} \textit{See}, e.g., Arthur Austin, \textit{A Primer on Deconstruction's "Rhapsody of Word-Plays,"} 71 N.C. L. REV. 201, 208 (1993) (commenting on "deconstruction"); \textit{State of the Art Bad Taste}, CANBERRA TIMES, May 22, 1999, at 2, available at LEXIS, News Library, Canberra File (commenting on "Pomobabble"—by NAME); \textit{cf.} DONALD N. MCCLOSKEY, \textit{If You're So Smart: The Narrative of Economic Experience} 57 (1990), \textit{quoted in} Austin, \textsuperscript{supra}, at 208 n.62: A book by a French historian famous for his profound obscurity was recently translated into plain English. When thus made clear it turned out that his argument was simple, even a little simple-minded. The historian in his eminence was outraged by the lucidity of the translation. It did not capture, he complained, \textit{ma profondité}.

\textsuperscript{47.} \textit{"English socialism,"} for any who haven't read the book.

\textsuperscript{48.} ORWELL, \textsuperscript{supra} note 21, at 303-04.
Calling it "Newspeak," of course, would have let the cat out of the bag, and committed the cardinal postmodern sin of candor.\textsuperscript{49} So the phenomenon was itself given a benign-sounding name: "naming." Having "proven" that language consisted of an infinite regress of signifiers that could carry no determinate meanings\textsuperscript{50} (thus, to take just one example, the United States Constitution meant whatever you wanted it to mean, see?\textsuperscript{51}), the Pomoites attempted through "naming" (while all the time denying it) to construct a language whose most critical words could somehow clandestinely privilege\textsuperscript{52} their naked political preferences.\textsuperscript{53} A tough task for non-doublethinkers, but an elegant (if transparent) trick to play on gullible marks.

\begin{footnotes}
\footnote{Apart from its obfuscatory instrumental utility, Pomo's affinity for jargon (and purposeful lapses into French or German) traces back to the continental tradition, and perhaps more specifically (but by no means exclusively) to G.W.F. Hegel, Edmund Husserl, Martin Heidegger, and Theodor Adorno. \textit{See}, e.g., J.M. Balkin, \textit{Deconstructive Practice and Legal Theory}, 96 \textit{Yale} L.J. 743, 745 (1987) ("Hegel, Husserl, and Heidegger [were not]... known for clarity of exposition, and Derrida often does little better than his intellectual predecessors."); \textit{supra} note 5 (quoting Leo Tolstoy on the "clarity" of French "philosophy"); James Miller, \textit{Is Bad Writing Necessary? George Orwell, Theodor Adorno, and the Politics of Language}, \textit{Lingua Franca}, Dec/Jan. 2000, at 33 (commenting on Adorno's role); \textit{Richard Wolin, The Politics of Being} 19 (1990) ([I]Instead of trying to make his positions plausible through the customary techniques of... analysis, Heidegger seeks to convince... primarily by... various rhetorical strategies, as well as the employment of neologisms whose conceptual self-evidence is... assumed."); \textit{id}. (emphasis added):

In [Theodor] Adorno's view, the discourse of Heideggerian \textit{Existenzphilosophie} "sees to it that what it wants is on the whole FELT and ACCEPTED THROUGH ITS MERE DELIVERY, WITHOUT REGARD TO THE CONTENT OF THE WORDS USED." Thus, insofar as "the words of the jargon \textit{sound as if they said something higher than what they mean}... whoever is versed in the jargon does not have to say what he thinks, does not even have to \textit{think} it properly."\textsuperscript{[\textsuperscript{5}]


\footnote{\textit{See, e.g.}, Arrow, \textit{Pomobabble, supra} note 2, at 491-501 n.24 (quoting and commenting on Derrida).

\footnote{\textit{See Rules for Postmodernists, supra} note 4, No. 9 ("Read the text as you desire.").

\footnote{\textit{Cf.} id. No. 132 ("To change what things mean, redescribe them.").

\footnote{Postmodernist Stanley Fish doesn't much like the phrase "naked political preferences," explaining in a semantic ipse dixit that with the exception of trivial preferences such as gustatory ones, "preferences \textit{are} principles (or at least principled)—principles of the only kind there really are, strong moral intuitions about how the world should go... ." \textit{Stanley Fish, The Trouble With Principles} 9 (1999). What this really means, of course, is that naked political preferences are... well, naked political preferences. \textit{But cf.} Gabel & Kennedy, \textit{supra} note 28, at 4 (quoting Duncan: "Why can't I just call it Yearning? What's wrong with calling it \textit{intersubjective zap}?" (emphasis added)).}
Whether it could actually work (or had ever worked) to render unthinkable whatever attitudes were disfavored by the cynical self-appointed linguistic elite attempting it was dubious even theoretically. [Have the members of the signified group been elevated merely by changing their linguistic signifier from “bums” to “Homeless People”? (Has the cultural connotation of the former signifier now caught up to the latter?) Would the civil rights revolution have been worth it if all it had accomplished was to change the “colored people” signifier to the “People of Color” one? (For pomo professors, perhaps.)] But with Marxism in shambles from Bratislava (if not Berkeley) to Bucharest and Beijing, the point was that there wasn’t anything else. And among American public-law legal academics (not widely known for the diversity of their political thought), something was needed to shore up the self-esteem.

54. Cf. Balkin & Levinson, supra note 10, at 1774 (acknowledging that attempts to consciously influence the development of language may be viewed as “efforts by self-appointed elites to gain cultural control over the masses”).

55. Cf. ORWELL, supra note 21, at 123 (“Always yell with the crowd, that’s what I say. It’s the only way to be safe.”); RULES FOR POSTMODERNISTS, supra note 4, No. 141 (“Follow the market.”); Arrow, Messianism, supra note 14, at 165 (contemplating law-school market forces); FARINÀ, supra note 10, at 124-25 (“Stipend. Grants. The Ford Fruit, the Guggenheim Vine.”); ORWELL, supra note 21, at 136 (contemplating “thoughtcrime”); Arrow, Pomobabble, supra note 2, at 658 (defining “tenure” as “crimestop”—in Pomoland). See generally WALTER BENJAMIN, One-Way Street, in 1 WALTER BENJAMIN; SELECTED WRITINGS, 1913-1926, at 444, 458 (Marcus Bullock & Michael W. Jennings eds., 1996) (quoting a sign—but in this instance a written one: “Germans, Drink German Beer!”).

56. Since everybody’s “socially constructed” in the postmodern Weltanschauung, see, e.g., Balkin, supra note 14, at 1977 n.25 (citing sources), the “relatively autonomous self” is a fiction, but cf. Randall Kennedy, My Race Problem—and Ours, ATLANTIC MONTHLY, May 1997, at 55, 56 (criticizing Michael Sandel’s rejection of the notion of the “unencumbered self”), and things exist only when they’re talked about communally, see infra note 154 (quoting Stephen Feldman), postmodernists aren’t big on the concept of the individual. See, e.g., JONATHAN CULLER, THE PURSUIT OF SIGNS 32-33 (1981) (“The goal of the human sciences,” says Lévi-Strauss, ‘is not to constitute man but to dissolve him.’... [T]he ‘id’ is not something given but comes to exist as that which is addressed by and relates to OTHERS.” (emphasis added)); cf. Pierre Schlag, Fish v. Zapp: The Case of the Relatively Autonomous Self, 76 GEO L.J. 37, 48 (1987) (“[T]he self doesn’t really know what it’s doing.... It just sort of groks its way through life.”).

To be sure, “there is such a thing as givenness that is not itself the object of intentional acts,” HANS-GEORG GADAMER, TRUTH AND METHOD 245 (Joel Weinsheimer & Donald Marshall rev. trans., Continuum Publg Co. 2d ed. 2000) (1960) (emphasis added), but unless we’re all allowed to shoot each other at (gasp!) will, there is also a component that isn’t. And the pomos themselves furnish an interesting case study for contemplating where one stops and the other begins [but perhaps postmodernists are wholly socially constructed while the rest of us aren’t—an interesting hypothesis, to be sure, and one we’ll explore further later on, see, e.g., infra note 287 (quoting Kenneth Karst)], since despite their self-abasement professed suspicion of the self (and perhaps epistemologically-compelled affinity for groupthink), they seem to be anything but indifferent to self-promotion. See, e.g., RULES FOR POSTMODERNISTS, supra note 4, No. 65 (“Learn from Las Vegas.”); id. No. 82 (“Show your work.”); id. (No. 241: “Preserve your heritage through
of those whose commitment to the Lost Cause was Forever. Without a limiting external reality, wouldn't the power to "prove whatever you liked with whatever you had" fit the bill quite nicely?

aggressive marketing."; Feldman, supra note 21, at 2365 n.54 (encapsulating the thoughts of one self-described postmodernist law professor on the subject).

A paradox? Or is it just that esse est percipi thing? Cf. RULES FOR POSTMODERNISTS, supra note 4, No. 35 ("Speak to be spoken—language composes you." (emphasis added)); Arrow, Pombo-babble, supra note 2, at 564 (defining "horror"—in Pomoland). But cf. FRIEDRICH NIETZSCHE, BEYOND GOOD AND EVIL 209 (Walter Kaufman trans., Vintage Books 1966) (1886) ("The vain person is delighted by every good opinion he hears of himself... just as every bad opinion pains him: for he submits to both, he feels subjected to them in accordance with that oldest instinct of submission... [V]ANITY IS AN ATAVISM." (emphasis added)).


The European intellectual! What a marvelous figure... [F]rom that time to this... the American intellectual [?] would perform... the Adjectival Catch Up. The European intellectuals [?] have a real wasteland. Well, we have a psychological wasteland. They have real fascism? Well, we have social fascism (a favorite phrase of the 1930's, amended to "liberal fascism" in the 1960's). They have real poverty? Well, we have relative poverty (Michael Harrington's great Adjectival Catch Up of 1936). They have real genocide? Well, we have cultural genocide (i.e., what universities were guilty of... if they didn't have open-admissions policies for minority groups).

... They were difficult, these one-and-a-half gainers in logic. But they were worth it. WHAT HAD BECOME IMPORTANT ABOVE ALL WAS TO BE THAT POLISHED FIGURE AMID THE RUBBLE, A VISION OF SWEETNESS AND LIGHT IN THE SMOKING TAR PIT OF HELL.]

and RULES FOR POSTMODERNISTS, supra note 4, No. 157 ("Market anti-establishment postures."), and id. No. 7 ("Pose.").

58. See generally DOSTOEVSKY, supra note 16, at 125 ("Soon we'll contrive to be born... from an IDEA... ." (emphasis added)); HUXLEY, supra note 4, at 27 ("For Jeremy, direct, unmedicated experience was always hard to take in, always more or less disquieting. Life became safe, things assumed meaning, only when they had been translated into words and confined between the covers of a book."); CONRAD, supra note 20, at 21 ("What redeems is the idea only... and [a]... belief in the idea... something you can set up, and bow down before, and offer a sacrifice to... ." (emphasis added) (quoting Marlow)); supra note 8 (quoting Mark Tushnet on the utility of pep talks for Left-wing law professors).

59. See Feldman, supra note 21, at 2363 n.44 ("Postmodernists are, in effect, indifferent to objective reality... . Postmodernists... . do not necessarily claim that an external world does not exist. Rather, they claim only that to the extent that there is an external world, it is meaningful only through our HERMENEUTIC BEING-IN-THE-WORLD." (emphasis in original)). cf. Arrow, Pombo-babble, supra note 2, at 608 (defining "Pombo-babble"); RULES FOR POSTMODERNISTS, supra note 4 No. 221 ("In the attempt to demystify, further obscure."). But compare Feldman, supra, at 2363 n.44 (describing "hermeneutic being-in-the-world"), with Eddie Alterman, Kimwoo, Where Are You?, AUTOMOBILE MAG., July 2001, at 90, 91 (providing cartoon contemplating the search for Kim Woo-Choong, international fugitive and founder of Daewoo) ("In 1989, Kim wrote a book entitled Every Street Is Paved With Gold... . In it, he wrote: 'Activity is proof that you are alive.' ") [HMMMMMM... . Maybe not Gadamer's (or Feldman's) "hermeneutic being-in-the-world," but deep.]
II. THE GAMBIT

With all-too-frequent exceptions (at least in the legal literature\textsuperscript{61}), the insincere, doublespeaking, pseudo-intellectual rubbish\textsuperscript{62} that resulted went distressingly unchallenged through the early '90s.\textsuperscript{63} I knew, of course, that "[a]ll this in reality was an immensely delicate spiderweb,\textsuperscript{64} stretched to its limit and trembling, and at any moment it would snap and something beyond all imagining would happen."\textsuperscript{65} But by the late '90s, I'd had enough,\textsuperscript{66} and decided to pluck the string myself.

So in late 1997, I published an article in the \textit{Michigan Law Review}, the text of which (as contrasted with its footnotes) has been aptly described by Arthur Austin as the \textit{Devil’s Dictionary} of Pomo-
babbles. The article, entitled Pomobabble: Postmodern Newspeak and Constitutional "Meaning" for the Uninitiated, is a 230-page parody and satire of law-school postmodernism, with most of the good stuff in its sixty-nine overwhelmingly (and purposely) bloated footnotes.

Though you've already had a glimpse of its style if you've been reading the footnotes to this essay, Pomobabble purports to be a four-act play, with the revealingly-defined pomo jargon (the names) as its major "above the line" "characters." The messianic Leftist Vision legal professorate receives more than passing glances in the footnotes. And co-opting the Pomo Battalion's own technique of answering questions with more questions (while taking seriously—even though it doesn't—pomo's professed discomfort with "dualities"), each page also contains MEZZATEXT, which consists of questions between the text and footnotes on each page.

Pomobabble's abstract reveals just a bit more of its purposefully pungent flavor:

In what must surely be the most rich, textured, nuanced, and transgressive example of subversive postmodern narrative yet published in an American law review, Professor Arrow engages in what he apparently characterizes as a semiotic, cultural, and psychoanalytic study of postmodernism and its "theorizing" of American constitutional law. Perhaps deploying a number of variations on postmodern ana-

68. See supra note 2.
69. But cf. MANN, supra note 30, at 93 ("Adrian . . . did not love personal glances . . . .").
70. Cf. DAVID LODGE, CHANGING PLACES 12 (1975):
A colleague had once declared that Philip ought to publish his examination papers. The suggestion had been intended as a sneer, but Philip had been rather taken with the idea—seeing in it, for a few dizzy hours, a heaven-sent solution to his professional barrenness. He visualized a critical work of totally revolutionary form, a concise, comprehensive survey of English literature consisting entirely of questions, elegantly printed with acres of white paper between them, questions that would be miracles of condensation, eloquence and thoughtfulness, questions to read and re-read, questions to brood over, as pregnant and enigmatic as haikus, as memorable as proverbs; questions that would, so to speak, contain within themselves the ghostly, subtly suggested embryos of their own answers. Collected Literary Questions, by Philip Swallow. A book to be compared with Pascal's Pensées or Wittgenstein's Philosophical Investigations. . . .

See generally PYNCHON, supra note 35, at 293 ("If they can get you asking the wrong questions, they don't have to worry about answers." (emphasis added)).
71. See, e.g., Feldman, supra note 21, at 2365 & n.61 (criticizing same).
lytical style, Professor Arrow's narrative also appears to draw from the law-and-literature tradition, perhaps finding insights into the postmodern psyche, inter alia, in Thomas Pynchon's Bliceró, Fyodor Dostoevsky's Pyotr, Joseph Conrad's Kurtz, and the real-life (?) adventures of medieval mystics Heinrich Suso, Nathan of Gaza, Sigmund Freud, and William James. Coming to grips with the insights of contemporary French [depressive] "philosophy," he may definitively establish the positions of Michel Foucault and Jacques Derrida in the cannon. He also makes a number of interesting observations about feet.

Perhaps the article is a satire; perhaps not. It should go without saying that given the indeterminacy of language and the fluidity of meanings, any attempt to resolve that issue could only be quixotic.\(^7\)

No doubt because it attacked pomo's jargon—its primary tool (such as it is)—so directly, turned the tables\(^7\) and explored the postmodernists' psychological (and other) motivations, was as edgy as the Crits at their best (worst?),\(^7\) labeled rubbish as rubbish, and was manifestly "fighting for keeps," Pomobabble generated what may yet become a running series of rear-guard, pomo-defending attacks in the literature. I'd apparently hit a nerve.

III. THE KROTOSZYNSKI CRITIQUE

First up to the plate was Professor Ronald Krotoszynski, who took his swings in the Texas Law Review.\(^7\) While saying some nice

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74. See Arrow, Messianism, supra note 14, at 160-61 (noting the intergenerational appeal of motivation-questioning among twentieth-century left legal academics—including the postmodernists).

75. Imagine an article that visualizes Duncan Kennedy morphing into Joseph Conrad's "harlequin" (or is it Jacques Derrida?), while providing commentary by Richard Fariña, Mary Hopkin, and Gertrude Stein on the process; that contemplates the harmonic possibilities of a Bell Bottom Blues duet between Kennedy and Eric Clapton; that analogizes Cornel West's self-positioning techniques to those of the leaf butterfly; that suggests that Cass Sunstein's brand of feminism confines women who reject it to a gilded canary cage (the custody of which, of course, is Sunstein's); that visualizes Morton Horwitz departing for Mars on a postmodern Rocket powered by his constitutional "theory" [Pomobabble borrows Thomas Pynchon's Rocket metaphor throughout]; that takes no issue with Alfredo Mirendel's characterization of Richard Delgado's fictional character Rodrigo as an unauthentic nerd; that unfavorably compares the intelligence level of postmodernists with those of chimpanzees, cetaceans, and basset hounds; that proffers an eleven-step logical proof (in symbolic notation) for the nonexistence of Richard Rorty; that does it all in the context of a search for Joseph Conrad's (or is it Francis Ford Coppola's?) Kurtz (or is it Svengali?), and whose last word of text (as contrasted with its footnotes and artwork) is the eminently-interpretable "Nuts." See generally CATHARINE MACKINNON, ONLY WORDS 3 (1993) ("Imagine . . . .").

things about Pomobabble in passing, Krotoszynski was not unqualified in his praise. (I drew that conclusion after reading assessments that included “a war crime” in the “ongoing Kulturkampf,” and sentences such as “[I]magine a law review article by Hunter S. Thompson after a really bad trip.”)

Ahh, refreshment! A pomo defender (Krotoszynski’s both too sophisticated and too adaptable to be a full-blown Initiate) who tells us what he thinks in plain English! Writing a reply was surely going to be a pleasure.

And it was. In coming to grips with my humble but ponderous Leviathan, Professor Krotoszynski eagerly consumed a healthy quantity of the analytical bait I’d so carefully embedded therein. My late-1999 reply, entitled “Rich,” “Textured,” and “Nuanced”: Constitutional “Scholarship” and Constitutional Messianism at the Millenium, didn’t throw as much as a hard slider.

I began Messianism by embracing Krotoszynski’s Hunter Thompson characterization, noting (though in springing the first trap on himself, Krotoszynski may have missed it) that Pomobabble sprinkles references to Dr. Thompson rather liberally throughout. Besides, Pomobabble is a parody, and in pomo everything’s supposed to be relevant to everything else, with no “text” getting privileged status. So why not the Gonzo King, who seems to have cap-

77. See, e.g., id. at 323 n.12 (characterizing the MEZZATEXT as “amusing”); id. at 324 (acknowledging that “some legal scholarship has devolved so far into deconstructionist or postmodernist jargon as to no longer be coherent”); id. (“Moreover, legal academics from a variety of ideological backgrounds are falling prey to the siren song of ‘postmodern newspeak.’”); id. at 324 n.14 (“Professor Arrow’s point is, at least arguably, on the mark.”); id. at 323 (characterizing Pomobabble as “very clever” and a “magnum opus”); id. at 328 (“Make no mistake, Pomobabble represents a major undertaking. . . . It roams across a vast expanse of knowledge, from main-line legal scholarship, to pop culture, to relatively complex theories of language and epistemology. There is some method to his madness . . . .”); id. at 326-27 (“Given that the emperor has no clothes, Arrow, like the young boy in the children’s tale, should be lauded for stating openly what we all secretly know to be true.”); id. at 328 (“Professor Arrow’s work is a powerful, but sad, statement about the contemporary legal academy and the value of its scholarship.”).

78. Id. at 322.

79. Id. at 323-24.

80. See supra note 14.

81. See Arrow, Pomobabble, supra note 2, at 468 n.10, 488 n.23, 548 n.30, 561 n.33, 574 n.39, 589 n.39, 590 n.39, and 639 n.46. You’ll find Dr. Thompson invoked in the instant work as well. See supra note 28.

82. See Arrow, Messianism, supra note 14, at 153, 156.

83. See Feldman, supra note 21, at 2369 (“Postmodernism is characterized by the over-abundance of meanings, coupled with . . . the scarcity of adjudicating authorities.” (quoting Zygmunt Bauman)); RULES FOR POSTMODERNISTS, supra note 4, No. 1 (“Talk about anything in the context of anything else.”); cf. Arrow, Pomobabble, supra note 2, at 468 n.10 (noting that in the Breakfast Theory pomo spoof, the motto of Post Modern Toasties is “Like everything you’ve had before, all mixed up”). But cf. Balkin, supra note 14, at 1967-72 (proffering an internal division
tured pomo's analytical[?] style quite nicely? The "who owns the Hunter Thompson metaphor?" thrust parried, I turned to Krotozynski's three specific critiques.

To the first—that I don't take the "narratives," or "agony tales" seriously as legal scholarship—I pled guilty. For the benefit of those wise souls who have reserved their precious reading time for more interesting material, I proffered an unvarnished (and empirically verifiable) description of the essence (gasp!) of the narrative "scholarship" movement that was très chic in American law reviews a decade or so ago:

First, pick a result (any result) from among those endorsed by the political Left. Then, write a sophomoric, leaden, and preachy story (preferably a one-dimensional one, with one-dimensional characters) getting you to the desired [and oh-so-predictable] outcome in fifteen to twenty-five pages. (You can even tell the story as if it were true; if it's later revealed to be false, you can rely on the "subjectivity of truth" presupposition to argue that truth doesn't matter.)

But in addition to my confession, I also proffered an avoidance, noting that few others in the academy or on the bench seemed to take the "agony tale" jeremiads seriously as legal scholarship either. Even so, criticism of the narrative movement (which had already long peaked by the time I wrote Pomobabble in 1996 and 1997) occupied only a minuscule portion of Pomobabble's attention, as that article had bigger fish to fry.

Second, Krotozynski argued that insofar as Pomobabble questioned the postmodernists' motivations, it's ad hominem and therefore worthy of condemnation. But in taking that swing, Krotozynski perhaps revealed his own unawareness within pomo, and cautioning that legal pomo shouldn't emulate cultural pomo's fragmentation for its own sake, since such pluralism isn't necessarily "progressive," and might actually empower bad political movements like the one led by that evil Ronald Reagan; Douglas Litowitz, In Defense of Postmodernism, 4 GREEN BAG 2d 39 (2000) (essentially replicating Balkin's taxonomy).

84. Arrow, Messianism, supra note 14 at 157-58 (footnote omitted); see also id. at 159 (quoting Richard Delgado & Helen Leskovac, The Politics of Workplace Reforms: Recent Works on Parental Leave and a Father-Daughter Dialogue, 40 RUTGERS L. REV. 1031, 1040 (1988)):

REBECCA: Dad, I am so happy. I just learned that I am pregnant ....

ROBERT: ... [A]re you going to be able to manage? ...

REBECCA: I'll be fine. ... I'll only miss three months of work [at the bank] ....

ROBERT: ... It seems to me that the bank may say your job may be guaranteed when you come back, ... but may not do it in practice.

I also confess to having wondered in print whether any sentient being could not know what was coming in the following eighteen pages. See Arrow, Messianism, supra note 14, at 159.

85. See id. at 159-60 & nn.52-57.

86. See Krotozynski, supra note 76, at 322.
that the Legal Realists made careers out of second-guessing the motives of judges (which invariably turned out to be the oppression of the marginalized), that the CLSers were addicted to "shallow psychologizing," and that postmodern hermeneutics deems it mandatory to inquire into . . . motivations to gain "insights" into the "unsaid side of the discourse." 87

Bait taken. Were that not enough, even though I hadn't psychoanalyzed any individual law professor (I did, however, with respect to Heidegger, Foucault, and Derrida88), Krotoszynski psychoanalyzed me.89 Too good, but a short step for tall steppers, doublethinkers, and hubristic others who may think they're entitled to dish it out without having to take it. Be that as it may, Krotoszynski couldn't have made my point any better, so eschewing the proffered doublethink, I made (and make) no apologies for delivering a generous serving of motivation-questioning in return—with relish.

Krotoszynski's third critique was that Pomobabble's just too long; you'll get just as much satiric value from reading just a part of it, he suggested,90 and the pages it consumed in the Michigan Law Review might otherwise have been devoted to really important stuff (or at least stuff from young professors on the make).91

Of course, anyone who's waded through hundreds of pages of Derrida's mystical gibberish92 for the sake of gleaning the Sublimely related93 "postmodern insights" that words can have more than one meaning94 and that Marxism is a Good Thing95 (and I hope for Krotoszynski's sake that he hasn't), might well lack standing to object to the length of any reply. Besides, Pomobabble is a parody, with its length also reflecting a lesson I learned well from the Crits:

87. Arrow, Messianism, supra note 14, at 160-61 (emphasis added) (footnotes omitted).
88. See, e.g., Arrow, Pomobabble, supra note 2, at 493 n.24 (Heidegger); id. at 491-502 n.24 (Derrida); 583-92 n.39 (Derrida and Foucault, with digressions on Heaven's Gate Messiah Marshall Applewhite, Munchausen by Proxy Syndrome, Mutual Dependency Syndrome, the Pieta, power-paradigm obsession, sadomasochism, Don Delillo's thoughts on the Hitler Studies Department at the College on the Hill, Thomas Pynchon's observations about Rockets, John L'Heureux's comments on deconstruction, Virgil's assessment of Mezentius, and Joseph Conrad's most revealing one-paragraph portrait of Kurtz).
89. See Krotoszynski, supra note 76, at 328-30; cf. Arrow, Messianism, supra note 14, at 162 n.69 (commenting on the phenomenon).
90. See Krotoszynski, supra note 76, at 324-25.
91. See id. at 325-26.
93. Cf. Feldman, supra note 14, at 52 (discussing the relatedness of Gadamer's "philosophical [?] hermeneutics" to deconstruction).
94. An equivalent linguistic "insight" could, of course, be gleaned from a two-second meditation on the sixth word of the title of this Essay.
95. See, e.g., Derrida, supra note 8.
Fighting, as they saw it, fire with fire, the Crits responded to long articles in elite law journals with longer articles in elite law journals. . . . From the C.L.S. point of view, . . . they were matching a local discourse of power and constraint . . . with a discourse of resistance. It is a modest form of political action simply to try to reduce the authority of those who control the local situation.66

[A nice reversal, with the Crits now in control?]

Of course, Pomobabble wasn’t long just for the sake of length; as I explained in my reply to Krotoszynski:

Pomobabble’s footnotes consist of a tightly-woven series of mini-essays (and not-so-mini-essays) often purposefully in stream-of-consciousness, string-quotatation form on topics from the article’s structure and project . . . to the postmodernists’ attempted use of music, resistance to clarity, hypocritical attacks on dualities, politicized history and mystic influences, and from education to epistemology, “critical” feminism and empiricism. And Pomobabble is indeed a type of novel, synthesizing . . . the timeless observations of Virgil, Dostoevsky, Conrad, and Mann (inter alios) about the human condition, and culminating with Kurtz’s Moment of . . . Truth in footnote 67 (or is it 68? or 69?).7

Doing all that took space, and I argued that the project’s ambition was justified in light of the threat to American democracy78 posed by the “(con)stitutional law” postmodernists’ ultimate project—dismantling the authority of constitutional text and tradition, and replacing them with emotion-driven (and potentially catastrophe-inducing) totalizing Leftist Visions.99

IV. FELDMAN AT THE BAT

Perhaps fearing that Professor Krotoszynski may have whiffed while providing me an opportunity to further my critique (which included original artwork depicting a naked Lenin, on Dali’s conquistador’s horse, leading refugees from Plato’s cave toward

97. Arrow, Messianism, supra note 14, at 164 (footnotes omitted).
“equality”100), up stepped Professor Stephen Feldman to save the
day. Feldman’s work, which immediately precedes this Essay, is
ettitled An Arrow to the Heart: The Love and Death of Postmodern
Legal Scholarship.101 Feldman at least purports to offer a more sys-
tematic attack on the efforts of Your Humble Narrator.

As the reader well knows, postmodernists aren’t big on
structure. In his paradigmatically postmodern Foreword to the Har-
vard Law Review’s 1993 Supreme Court issue, Mort Horwitz went
so far as to attack the Supreme Court’s practice of constructing its
opinions in Parts and Subparts as “methodological obsessions,” and
its attempts to classify and categorize as “medieval”
“technicality.”102 [How useful that postmodern resistance to clarity
(not to mention downright dissembling)104 can be when you’re
routing for the Big Court to put one over on the crowd!]

But consider—with Feldman, a professed postmodernist105
who’s written (seemingly) dozens of articles on postmodernism, now
drawn squarely into the box, some unusually pregnant possibilities
are presented. He’s attempted (or at least pretended to attempt) to
tell us precisely—and in the best modernist tradition, in clear
text106—what law-school postmodernism is, defend it, and specifi-
cally enumerate the reasons why I’m wrong.

What’s about to transpire in the following thirty-six pages
will illustrate (1) how Feldman has now laid it all on the line; (2)
why postmodernists more crafty than Feldman have found the

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100. See Arrow, Messianism, supra note 14, at 172 (reproducing—in full-color glory—Saint Vlad(imir) and the Postmodern Priesthood of “Equality” (© Dennis W. Arrow & John Rainey 1999)).
101. See supra note 21.
103. See supra note 6 (commenting on obscurity), supra note 43 (same); supra note 12 (quoting Andrew Boyd on the utility of bullshit); cf. Mas’ud Zavarzadeh, Book Review, 40 J. AESTHETICS & ART CRITICISM 329, 333 (1982) (reviewing CULLER, supra note 56) (arguing that “unproblematic prose and . . . clarity of . . . presentation . . . are the conceptual tools of . . . conservatism”).
104. See, e.g., Arrow, Messianism, supra note 14, at 149-50 n.1 (commenting on the “jurisprudental” con law prescription of the crypto-postmodernist Cass Sunstein); cf. Feldman, supra note 13, at 158-64 (documenting the postmodern nature of Sunstein’s “jurisprudence”); Feldman, supra note 21, at 2371 (same). But cf. Feldman, supra note 21, at 2370 n.78 (quoting Sunstein suggesting—if he’s not dissembling, which he may well be—that he’s unaware of his own postmodernism).
105. See id. at 2352.
106. See id. at 2365 n.54 (“I . . . believe[] that postmodernism can be explained . . . clearly.”).

Ultimately, we’ll discover that Feldman is incapable of defending whatever it is he’s defending without pomobabbling at critical junctures, but we’ll get to that observation in due time.
technique of obfuscation (to a much greater extent than Feldman, despite his protestations, obfuscates) essential; and (3) why I'll be eternally grateful (as should all non-postmodern law professors—and America\(^{107}\)) to Feldman for proffering his attack. So let's break down Feldman's objections into their components—part by part, and subpart by subpart—and see exactly where we come out. But first, of course, the rules of the game.\(^{108}\)

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107. See, e.g., WALT WHITMAN, Leaves of Grass, in LEAVES OF GRASS AND SELECTED PROSE 18 (Scully Bradley ed., Holt, Rinehart & Winston 1949) (1881) (“DEMOCRACY! [N]ear at hand to you a throat is joyfully singing.” (emphasis added)); id. at 21 (“For your life adhere to me... On my way a moment I pause, [h]ere for you! and here for America!”); VAN WYCK BROOKS, THE TIMES OF MELVILLE AND WHITMAN 185 (1947) (emphasis added):

Seeing man, as [Whitman] did, in nature... he detested [aesthetic poets'] indoor aroma, their suggestion of the parlour, of “dandies and ennuyees”.... With their small caliber... they were... he felt... six times diluted imitators of the... French, concerned with... fashion... mainly, verbal jewelry, aborted conceits, thin sentiment... Most of their poems were but... lumps of sugar and the chief part of their dish was the glucose flavors. Not one... confronted... the voiceless but erect and active spirit of the land, its pervading will and... aspiration....

For the country signified to Whitman the new age he was fighting for, the incarnation and the pledge of DEMOCRACY and SCIENCE.[]

cf. id. at 180 (“[Both] Whitman... and... Dostoevsky... were... examples of the idea that nations had missions, roles of their own to perform for the good of mankind... Both sprang from deep roots in the histories of the[n] nations...”). WHITMAN, supra, at 18 (“I will not make poems with reference to parts... But I will make poems with reference to ensemble...” (emphasis added)); id. at 44 (“I speak the pass-word primeval, I give the sign of DEMOCRACY.” (emphasis added)); id. at 1 (“One's SELF I sing, a SINGLE SEPARATE PERSON, Yet utter the word DEMOCRATIC...” (emphasis added)); BROOKS, supra, at 132-33 (emphasis added):

For [Whitman] the tumult even of the political scenes was good to behold and reassuring—How much better than the despairing apathy of the people of European states,—the “well ordered” governments of Germany and... Russia....

... In politics... the democratic formula was the only safe and preserved one for the future. It was the only effective method for... training people to rule and manage themselves of their own will,—far better better than merely finding good RULERS for them...[].

WHITMAN, supra, at 6 (“The prophet... shall mediate to the MODERN, to DEMOCRACY, interpret... to them...” (emphasis added)); id. at 57 (“I am the clock myself.”); LAWRENCE H. TRIBE & MICHAEL C. DORF, ON READING THE CONSTITUTION 30 (1991) (“LISTEN TO WALT WHITMAN.” (emphasis added)). See generally STEIN, supra note 43, at 21 (“[P]erhaps Europe is finished.”).

108. See generally Balkin, supra note 14, at 1972 (“The analogy to ‘games’ is important because it is also characteristic of postmodern philosophy to view knowledge as an activity infused with social interaction and power rather than merely a set of articulable propositions or truths.”).
Because Feldman has both criticized my earlier work for not "confront[ing] postmodernism on its own terms" and "[paradoxically]" recognized that the "style" of my critique is postmodern, I get to deploy the techniques of postmodernism in fashioning my reply (unless, of course, the reciprocity would be excessively "formalistic" and insufficiently flex-o, bend-o, and "situated"'). So, given my "latent affinity" (in Feldman's assessment) for the postmodern flame(s), here are the rules under which we'll play from here on out: 1.

1. I GET TO LIE.

[It won't REALLY be lying, you see. Whatever I say can't be falsified either logically or empirically, because logic's not REALLY a "neutral principle" (but rather one that's political, hegemonic, and phallocentric115), and because both Feldman and I (on his hypothesis) are "indifferent to" objective reality (which in any event isn't meaningful as anything other than a social construct, and maybe not even then117).]

109. Or at least Ronald Dworkin's. See Feldman, supra note 21, at 2367. But since Feldman seems quite comfortable in equating others' critiques of pomo with my own (even in an article ostensibly focused on my work), see id. at 2353, 2367, I'll take the sweet with the bitter.
110. Id. at 2367.
111. Id.
112. See generally FISH, supra note 53, at 41 ("[T]he logic of what's sauce for the goose is sauce for the gander requires that you redescribe your enemy as someone just like you. Indeed, in this vision, there are no enemies (except religious zealots) . . . ." (emphasis added)).
113. Feldman, supra note 21, at 2368.
114. Cf. Richard Delgado, Rodrigo's Book of Manners, 86 Geo L.J. 1051, 1058 (1998) (noting that postmodernists get to make up the rules under which they can be criticized); Feldman, supra note 21, at 2366 (same).
115. See supra note 32 (quoting Chantal Mouffe and Elizabeth Fox-Genovese).
116. See supra note 59 (quoting Feldman).
117. See supra note 23 (quoting Hilary Putnam on the "new" pragmatism's indifference to consequences); MORTON J. HORWITZ, THE TRANSFORMATION OF AMERICAN LAW 1870-1950, at 209-10 (1992) (criticizing "constructive mode" Legal Realism for "subordinat[ing] political and moral PASSION to social science expertise" (emphasis added)); FISH, supra note 53, at 8-9 (defending not empirical consequences—assuming perhaps counterfactually that there is a "real world"—as the appropriate guide to behavior, but subjective "intuitions" and the "desires that already possess you").

'And what about Hitler's boys,' Mr. Propter asked. 'What about Mussolini's boys? What about Stalin's boys? Do you suppose they're not just . . . as firmly convinced that [theirs is] . . . the cause of justice, truth, freedom, right and honour?' He looked at Pete inquiringly. . . ." HUXLEY,
2. I GET TO MAKE ARGUMENTS I DON'T BELIEVE IN, PURELY FOR THEIR POLITICAL EFFECT.  
[Apparently everybody agrees with this one, from Feldman to Fish.]

3. I GET TO CONTRADICT MYSELF AT WILL.  
[I can explain away any asserted internal contradiction on too many bases to enumerate, but that include at a minimum: (1) My argument (whatever it is) is really "principled" after all, since the only principles that count are political ones, and purportedly "neutral principles" like consistency are just reactionary "formalism"; (2) Words don't have stable "signifieds," so how can anyone "prove" that whatever I said IS a contradiction? (3) Whatever I said isn't a "contradiction," it's a "paradox"; (4) The attacker hasn't "confronted me on my own terms"; (5) I've been "misinterpreted"; and much, much more. (As the pa-


118. See, e.g., Fish, supra note 53, at 23–24 ("I was . . . the beneficiary of . . . one [question] that was terrific. 'Although you bill yourself as being 'against principles,' doesn't your own argument suggest that you would have recourse to the vocabulary of principle if it suited your own ends?' Right."); id. at 6–7 (conceding cheerfully that he does precisely that with the "principle" of "nondiscrimination"—whatever it may mean); Rules for Postmodernists, supra note 4, No. 292 ("Play with the pieces."); Feldman, supra note 13, at 181 (leaving us with the following quotation from Jean Baudrillard as the tag line of that article: "One plays . . . with things that one doesn't believe in anymore.").

119. See, e.g., Fish, supra note 53, at 8, 14.

120. See, e.g., Arrow, Pomobabble, supra note 2, at 492-94 n.24 (commenting on Derrida and "signifiers").

121. See, e.g., Feldman, supra note 21, at 2364-65 & n.52 (commenting on "the postmodern concern for paradoxes"); Gabel & Kennedy, supra note 27, at 9 ("Duncan: [W]hat we need to do is look for . . . ways of doing things in which the goal is not to convince people by lucidity. . . . But rather to operate in the interspace of artifacts, gestures, speeches and rhetoric, histrionics, drama, all very paradoxical, soap opera, pop culture, all that kind of stuff." (emphasis added)); cf. Conrad, supra note 20, at 50 ("There he was before me, in motley, as though he had absconded from a troupe of mimes, enthusiastic, fabulous"); D. Delillo, White Noise 310 (Penguin Books 1986) (1985) ("I continued to advance in consciousness . . . Water struck the roof in elongated orbs . . . . A richness, a density. I believed everything.").

122. See, e.g., Feldman, supra note 21, at 2367. Were Feldman to confront me on my terms, however, he'd be forced to respond to the related propositions that "[a] contradiction is an opposition which of its own nature excludes a middle," Aristotle, Posterior Analytics, in The Basic Works of Aristotle 106, 112 (Richard McKeon ed., 1941), and that "any conjunction of the form 'p ~ p' logically implies ANY SENTENCE WHATSOEVER; therefore acceptance of one sentence and its negation would commit us to accepting EVERY SENTENCE AS TRUE." W.V. Quine, Philosophy of Logic 81 (2d ed. 1986) (emphasis added); cf. id. ("[T]he notation [~; 'not'] ceased to be recognizable as negation when . . . some conjunctions of the form 'p ~ p' [were regarded] as true, and stopped [before] regarding such sentences as implying all others. Here, evidently, is the deviant logician's predicament: when he tries to deny the doctrine he only changes the subject.").
leo-postmodernist Saul Alinsky once counseled, "Make the enemy live up to [his] own book of rules."[123]

4. But I get to attack any of my challengers for what I loosely (since logic—at best—is "formalism") characterize as their inconsistencies.[124]

[As Stanley Fish notes, "what's sauce for the goose is sauce for the gander requires that you redescribe your enemy as someone like you,"[125] and for present (and perhaps many other) purposes, Feldman is not just like me.[126] Besides (Alinsky one more time), "[r]adicals must be . . . sensitive enough to avoid being trapped by their own tactics."[127]

5. If I'm about to get thwacked even under the above "rules" [an impossible hypothetical, to be sure], I get to modify the meaning of my (or for that matter, my opponent's) words so as to change the subject[128] and evade the putout.

[The postmodern "philosopher" Richard Rorty is the acknowledged master of this one, as a thoughtful glance at his "Contingency" book[129] (or much of his other post-conversion writing) will demonstrate.[130]

6: I get to "prove" whatever I'd like without authority—
as long as I do so in the name of "pragmatism."
[Too much authority (oops! I forgot . . .) supporting this one to catalogue, but Rorty again seems to get the job done quite nicely.[131]

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124. See Feldman, supra note 21, at 2357 ("The most obvious problem with the various criticisms of postmodernism is the wild inconsistency.").
125. See supra note 112 (quoting Fish).
126. Or is he? See infra notes 210-25 and accompanying text.
128. Cf. supra note 122 (quoting Aristotle and Willard VanOrman Quine on the necessity of refraining from so doing pursuant to non-deviant logic).
130. See Arrow, Pomobabble, supra note 2, at 629-37 n.46 (subjecting Rorty's writings to some non-doublethink analysis, exposing his technique, and vanishing him—in symbolic notation). But cf. Richard McKeon, Introduction to The Basic Writings of Aristotle, at xi, xvi (Richard McKeon ed., 1941) ("The syllogism, as conceived by Aristotle, required an emphasis on terms . . . he called univocal, that is, words [that] retain the same meaning every time they are used.").
131. See Richard Rorty, What Can You Expect from Anti-foundationalist Philosophers?: A Reply to Lynn Baker, 78 VA. L. REV. 719, 720 (1992) ("If the audience keeps BRAYING [not singing] 'What's your authority?,' 'What's your source of legitimation?,' and so on, then she will have something to say . . . Pragmatism is having a PHILOSOPHER on hand to murmur in your ear 'You have the right not to answer that question.'" (emphasis added)); cf. DuMaurier, supra note 6, at 290-91 ("[S]he folded her hands across her breast . . . and in a weak voice said: 'Svengali . . .

Having established the ground rules, we may now apply them to Feldman’s five specific critiques. Distilled, Feldman essentially argues that...

Time out!

B. The Seventh-Inning Stretch

Stanley Fish has articulated a critical postmodern precept that I’d almost forgotten: while it isn’t important that postmodern writing be right (whatever that may or may not mean), it’s at least supposed to be important that such writing be “INTERESTING.”

Were I to write the remainder of this Essay in the postmodern [i.e., flex-o, bend-o, doublethink] style, availing myself of all the above-enumerated rhetorical tricks (obvious though they may be—and does any reader doubt I could enumerate more?), would the rest of this Essay even satisfy that criterion? Can there be an “interesting” Spaceball game? [How’s that for “taking postmodernism on its own terms”?]

Or would it be an intellectually insulting, condescending, and ultimately boring crypto-polemic, not necessarily written by a dim-bulb, but surely written for them? Indeed, would there be any reason to continue reading this Essay at all?

Aristotle, of course, realized millennia ago that “a man investigating principles cannot argue with one who denies their existence.” So how can one argue with Feldman? [Do I even need to at this point? Could a logical rebuttal do any good? On Feldman’s principle-free terms, is it possible? Could Feldman be persuaded to abandon (or shamed into abandoning) his position no matter what I said? Or is Feldman’s a theology, to be maintained to the end, come

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Svengali . . . Svengali! . . . ’); CONRAD, supra note 20, at 90 (“She took both [his] hands in hers and murmured ‘I had heard you were coming[,]’”); L’HEUREUX, supra note 3, at 41 (“. . . but not so soon.”); DOSTOEVSKY, supra note 16, at 196 (“‘Did you . . . arrive long ago?’ she murmured . . . with flashing eyes.”). See generally Arrow, Pomodabble, supra note 2, at 627-28 (distinguishing “low-watt instrumentalise’ “pragmatism” from other more coherent varieties).


133. See generally IRVING R. COPI, INTRODUCTION TO LOGIC 69 (3d ed. 1968) (“No one would be misled by this argument, but countless people are ‘suckers’ . . . .” (emphasis omitted)).

134. Supra text accompanying note 110 (quoting Feldman).

135. ARISTOTLE, Physics, in THE BASIC WRITINGS OF ARISTOTLE, at 218, 219 (Richard McKeon ed. 1941) (first emphasis omitted and second emphasis added).

136. See generally EDWIN A. ABBOTT, FLATLAND 27 (Harper Collins 1983) (1884) (“If my Spaceland patrons have grasped this general conception, so far as . . . not to reject my account as altogether incredible—I shall have attained all I can reasonably expect.”).
what may?137 If so, can we even name him a “professor”?138 Is Feldman really a closet monist139—the antithesis of a (gasp!) genuine postmodernist?140 Should we care? Or is Ronald Dworkin right that whatever Feldman might be trying to market under the commodified “pomo” brand name141 is a mere “subjective display[ ] in which we need take nothing but a biographical interest”142—if that?]

Be that as it may, for the benefit of non-postmodern readers who have persevered through the nauseating143 doublethink reflected in the above-catalogued postmodern “principles” of argumentation, I’m going to try (advance condolences gratefully accepted) to argue with Feldman. And the astute reader (you, in MY Weltanschauung) will have realized that even though I’ve yet to confront his specific critiques directly, I’ve been pursuing an Aristotelian approach thus far: that “[w]hen the objects of an inquiry . . . have principles, conditions, or elements, it is through acquaintance

137. See supra note 14 (quoting Feldman and Thomas Mann on the relationship of theology to “philosophy”). See generally infra note 154 (quoting Mark Lilla on Deconstruction, and perhaps suggesting that susceptibility to shame is not a noteworthy characteristic of Deconstructionists).

138. Interestingly enough, it is the (gasp) candid postmodernist, Stanley Fish, who raises this issue, in the context of institutions whose views are not fallibilist and thus not subject to revision. See Fish, supra note 53, at 37 (footnote omitted) (emphasis added):

[There is] . . . a famous passage in the declaration of principles of the American Association of University Professors, first published in 1915 and left in place (if only by silence) in subsequent declarations. In that passage the AAUP denies to religiously based institutions the name of “university” because “they do not, at least as regards one particular subject, accept the principles of freedom and inquiry.” Such institutions, the association grandly allows, may continue to exist, “but it is manifestly important that they should not be permitted to sail under false colors;” for “genuine boldness, and thoroughness of inquiry, and freedom of speech are scarcely reconcilable with the . . . inculcation of a particular opinion upon a controverted question.” It is not that controverted questions should not be asked, but answers to them should not be presupposed and insulated from the challenge of free rational inquiry.

139. ARISTOTLE, supra note 135, at 219 (“The [first] principles in question must be either (a) one or (b) more than one. If (a) one, it must be either (i) motionless . . . or (ii) in motion . . . .”). [HMMMMMMM . . . A motionless one? A solipsistic zero?]


141. Cf. RULES FOR POSTMODERNISTS, supra note 4, No. 216 (“Label your tribe.”).


143. Cf. TOLSTOY, supra note 6, at 141 (“[A]s soon as the . . . reader . . . feels that the author . . . does not . . . feel what he wishes to express[,] . . . a resistance immediately springs up, and the . . . newest feelings and the cleverest technique not only fail to produce any infection but actually repel.”).
with these that knowledge . . . is attained.” The quotations from Feldman (and other postmodernist writers) that I’ve embedded thus far in the footnotes have revealed most of the “principles, conditions, or elements” that have enabled us to move the discussion forward to this point. The ones Feldman reveals in his specific critiques of my work will enable us to move it still further. So to level the playing field (to Feldman’s benefit)—and to keep it “interesting”—“let us deconstruct [him] in the Aristotelian manner.” I assure the reader that that won’t take long.

C. The Bottom of the Ninth

With the smoke and mirrors blown away, Feldman essentially advances five critiques of my work: (1) Law-school pomo isn’t what I say it is; (2) Pomobabble’s too long, since I use its footnotes (which are, after all, only “largely unconnected and arbitrary references to famous literary figures,” and ultimately “nonsensical”) solely to portray pomo’s vapidity; (3) Pomobabble’s “mean spirited,” since I invite my readership to laugh along with me at pomo; (4) I don’t critique pomo on its own terms; and (5) Despite my most vigorous protestations, pomoers can be political. (Feldman does make a few other more minor observations, but we’ll get to them in Section D of this part, where there will be at least one more—hopefully interesting—plot twist.) But for now, batter up.

1. I Just Don’t “Get It”

Because I assume the intelligence of my readers, I’m comfortable leaving an evaluation of how much I understand and how much I don’t to you. Pomobabble contained two hundred pages of

144. ARISTOTLE, supra note 135, at 218 (emphasis added).
145. L’HEUREUX, supra note 3, at 9.
146. Feldman, supra note 21, at 2354-55.
147. Id. at 2365.
148. Infra notes 210-25 and accompanying text.
149. Cf. UMBERTO ECO, THE NAME OF THE ROSE 465 (William Weaver trans., Harcourt Brace Jovanovich, Inc. 1983) (1980) (“You know that it suffices to . . . reconstruct in one’s own mind the thoughts of the other.”); CULLER, supra note 56, at 102 (same, but noting that in pomo, the idea’s been named “dédoublément”); CONRAD, supra note 20, at 12 (“Are you an alienist? . . . ‘Every doctor should be—a little.’ ”); FOUGAULT, supra note 30, at 195 (“What was fundamentally invisible is suddenly offered to the brightness of the gaze, in a moment of appearance so simple, so immediately that it seems to be the natural consequence of a more highly developed experience.”); PYNCHON, supra note 35, at 276 (“Earlier the conspiracy was monolithic, all potent, nothing [that] could [be] touch[ed].”). But cf. DEJILLO, supra note 121, at 184 (“It was only after mo-
footnotes and thousands of citations, and Messianism and the instant work quite a few more. If that hasn’t done it, nothing I do in this subsection will. But Feldman blasts me (along with Richard Posner, Ronald Dworkin, Brian Leiter, Arthur Austin, and others) for simply failing to “get” pomo (or at least misinterpreting it),\textsuperscript{150} perhaps because it’s so “complex,” or due to our (or some of our) “slipshod scholarship,”\textsuperscript{151} or (perhaps more charitably) scholarship that’s not up to Feldman’s very high standards.

I confess at the outset to being delighted to be among the “slipshod scholar[s]” Feldman lists. And for what it’s worth, Ron Krotoszynski, a bright guy who took some rather vigorous swings at Pomobabble, didn’t appear to think it misdescribed.\textsuperscript{152} Nor did a single one of the hundred or so letters (mostly pro, some con) that I got from law professors (and others) commenting on Pomobabble. But come to think of it, you won’t have to trust me after all: my star (and surprise) witness is . . . Stephen Feldman!

We can approach this particular pitch from three perspectives. First, the reader will have noticed that in addition to citing numerous other postmodernists (including everybody who vetted Feldman’s essay except Marty Belsky) herein, I’ve also sprinkled citations to (and quotations from) Feldman rather liberally throughout the footnotes. In short, I’ve used Feldman’s own words (and those of his vettors) to establish many of my own points.\textsuperscript{153} [That’s the potential cut fastball.]

\textsuperscript{150} See Feldman, supra note 21, at 2356 (me); id. at 2357 (Posner); id. at 2356 (Dworkin); id. (Leiter); id. at 2357 (Austin).
\textsuperscript{151} Id. at 2363.
\textsuperscript{152} Cf. supra note 77 (quoting a number of Krotoszynski’s assessments—including some that suggest that I’ve hit rather close to the mark).
But second, let’s also look for a moment to the last component of Feldman’s essay, where he (1) tries to convince the reader that there’s a difference between what he names “antimodernism” and what he names “metamodernism” [carefully sorting through Feldman’s obfuscatory pomobabble, there’s only one difference—maybe\textsuperscript{154}]; (2) rather poignantly implores everybody within earshot

\textsuperscript{154} Giving Feldman his due, he does state—in one of the few (at least substantially) non-pomobabble sentences in that section—that “antimodernists” favor obscure writing [which he elsewhere characterizes as “maddeningly muddled and obscure” “poor” writing, see Feldman, supra note 21, at 2366, while “metamodernists” are in “the clear camp.” Id. at 2375 n.96. Even so [and obviously NEVER wishing to be pinned down, see generally FARINA, supra note 10, at 37 (“Can’t be classified is where it’s at. . . . ‘No responsibility, you mean.’ ‘Check.’”); EMMANUEL LEVINAS, Substitution, in THE LEVINAS READER 88, 90 (Seán Hand ed. & Alfonso Lingis trans., Blackwell Publishers 1989) (1968) (“What is essential is a refusal to be tamed or domesticated by a theme.”); FARINA, supra note 10, at 24 (“No index card for me, I’m Exempt. Secret identity mortally guarded, for I am the Plastic Man, able with an effortless shift of the will to become a bowling ball, a pavement, a door, a corset, an elephant’s contraceptive.” (quoting Gnosso))], Feldman immediately qualifies his (now formerly-clear) clarity/obscurity proposition by stating further that the distinction is only a “very rough approximation.” Feldman, supra note 21, at 2375 n.96. “PERHAPS.” Id. (emphasis added). See generally RULES FOR POSTMODERNISTS, supra note 4, No. 201 (“Hedge.”); id. No. 238 (“Guarantee nothing.”); id. No. 307 (“Buy time.”).


But Feldman’s on a roll. Want to know—specifically—why “anything doesn’t go” (whatever that means) for those good, “metamodernist” postmodernists? \textsuperscript{154}BECAUSE we [whoever “we” are] are necessarily constrained, since we [same comment] always are situated [though where, only God(amer) knows].” Feldman, supra note 21, at 2374-75 (emphasis added). [Boy, that sure adds structure, reassuring me that “anything doesn’t go.” I know I’m relieved. You?]

Want to know why those good “metamodernists” aren’t scientific relativists? BECAUSE Thomas Kuhn, properly (gaspt) interpreted,

\textsuperscript{154} explains exactly how science is possible, even though we cannot meaningfully access any type of brute data. When a scientist participates in a communal paradigm [“talks”], . . . [s]he knows what questions are interesting [cf. RULES FOR POSTMODERNISTS, supra note 4, No. 83 (“Pose reality as an interesting hypothesis.”)]: how to search for data [though she can never find them], how to present [“talk about”] findings, AND SO FORTH.

Id. at 2375 (emphasis added). But she still won’t “know” anything, so we’re back to the epistemological agnosticism. [And what do those “bad” “antimodernists” do? Jump off buildings? Eat poison? Travel to outer space without Rockets?] Cf. Delgado, supra note 114, at 1067 (noting the existence of “motions for a more definite statement”); id. at 1068 (noting the existence of “Rule 11, which provides for sanctions for frivolous claims”). But cf. RULES FOR POSTMODERNISTS, su-
(eyeshot?) to adopt his cynical and fatuous Emporer's New Clothes duality (oops!) "dichotomy" (and cite him for inventing the names), and (3) explains that nobody's a "bad" or "anything goes" (whatever that means) "antimodernist," up to and including "the later" Stanley Fish. Isn't the jargon, epistemology, and "reasoning" (such as it is) contained in Feldman's short, five-page section sufficient to itself corroborate at least half (maybe more) of my claims? [That's the potential change-up.]

And third, let's identify the characteristics that I claim are postmodern, but that Feldman chooses not to defend by omitting them from the "metamodern" half of his clandestinely-privileging pseudo-duality. Surely a scholar whose scholarship is as well researched as Feldman's is aware of the mysticism and dualism that underlie Derridean deconstruction (which Feldman at least thought he was defending only last year) at its core. Unless, of course,
he's only interested in Derrida's rather shallow political conclusions, and not the theological/mystical bases for the deconstruction that (in Derrida's marketing plan) got him there. Surely Feldman understands the foundational stuff, too. But over the cliff goes Kabballism, mysticism, mystical dualism, holy sinners, and any Derrida that's not directly political—omitted from the "metamodernist" list of virtues.

And surely Feldman's aware of the Death-obsession of postmodern icons Martin Heidegger and Michel Foucault, and the utility that a number of contemporary decon/postmodernists have found in promoting such a psychological state (or at least depression) for instilling the sense of Urgency that's necessary to prepare the proles for class struggle. But at least some of the psycho-

158. See Arrow, Pomobabble, supra note 2, at 491-502 n.24 (quoting and analyzing Derrida, and citing (gasp) authority).

159. See KRISTEVA, supra note 16, at 4 ("Montaigne's statement "To philosophize is to learn how to die" is inconceivable without the melancholy combination of sorrow and HATRED—which came to a head in Heidegger's case and the disclosure of our [?] 'being for [D]EATH.'" (emphasis added)); BEREL LANG, HEIDEGGER'S SILENCE, at xiv (1996) (quoting Heidegger: "Every thinker thinks but a single thought.").

160. FOUCAULT, supra note 30, at ix ("This book is about space, about language, and about [D]eath. . . ." (emphasis added)); Alexander Nehamas, Subject and Abject, NEW REPUBLIC, Feb. 15, 1993, at 27, 35 (noting "Foucault's long-standing obsession with [D]eath," but resisting Foucault biographer James Miller's rather obvious observation that Foucault's Death-obsession accounted for most of his writing); Arrow, Pomobabble, supra note 2, at 557-59 n.33 (suggesting that it explains far more than Foucault's writing); id. at 583-91 n.39 (commenting on Derrida, Foucault, and deconstruction-as-envy-and-hate).

161. Cf. KRISTEVA, supra note 16 at 4 ("I live a living [D]eath. . . . Time has been erased or bloated, absorbed into sorrow. . . ." (emphasis added)); supra note 16 (quoting, inter alios, Kristeva and Dostoevsky's Urgent revolutionary, Pyotr, on Gloom; DERRIDA, supra note 8 (including "the Work of Mourning" in the subtitle to his recent book on Marx); LANG, supra note 159, at xi (contemplating "fin-de-siècle melancholy" and the "new hyperconsciousness"); Arrow, Pomobabble, supra note 2, at 580-87 n.39 (quoting Elizabeth Wurtzel—before the Prozac kicked in) (emphasis added):

_They have no idea what a bottomless pit of misery I am. They will have to do more and more and more. [T]hey are still not listening. They still don't know that . . . they need to try to get through to me until they haven't slept or eaten or breathed fresh air for days, they need to try until they've died for me. THEY HAVE TO SUFFER AS I HAVE. And even after they've done that, there will still be more. They will have to rearrange the order of the cosmos, they will have to end the cold war. . . . [T]hey will have to cure hunger in Ethiopia and end the sex-slave trade in Thailand. . . . They have no idea how much energy and exasperation I am willing to suck out of them until I feel better. I will drain them and drown them until they know how little of me there is left even after I've taken everything they've got to give me because I hate them for not knowing._

162. See BELL HOOKS & CORNEL WEST, BREAKING BREAD 33 (1991) (quoting West: "As a Philosopher [?], I'm fundamentally concerned with how we confront [D]eath, dread, despair, disappointment, and disease. . . . And sociologists, economists, social scientists . . . are not primarily concerned with how individuals confront their inevitable [D]oom, their inescapable [E]xtinction."); id. at 52 (quoting West: "[U]nfortunately, we do indeed have very, very strong
logical tools (and the psyches) of Heidegger, Foucault, Derrida, Kristeva, and West (at least ostensibly) go over the falls, too. As useful as those "principles, conditions, or elements" might be to the decon/postmodernist program, why would Feldman jettison them [and there are, as the reader well knows, lots more]—if he knew about them? It must be another "paradox": even though Richard Rorty may "have no idea what 'postmodernism' means" (and therefore how the psychological/emotional elements of pomo fit together with its epistemological and political ones), surely Feldman does. I'm sure he'll help me with my fundamental misconceptions in his next fifteen or twenty law-review articles on the subject. [Chin music? Tough choice.]

2. The "Unconnected" and "Nonsensical" Nature of Pomobabble's Footnotes

Well, you either "get" 'em or you don't, though in Messianism I provided (and I've herein reproduced) a capsule description for readers who haven't had the time to tackle Pomobabble's novel-length mass. And if you've been reading the footnotes to this essay, you'll also have a pretty good idea of how "unconnected," "random," and incoherent my footnotes can be. Some people (including my ear-

expressions of gospels of wealth and health." (emphasis added)); id. at 52 (quoting hooks, prescribing Cuban movies as the antedote). West apparently at least thinks that he's a postmodernist. See id. at 23 (describing West as a "[t]heorist of postmodernism"); cf. id. at 22 (quoting West declaring his allegiance to "Marxist social analysis and political praxis"). See generally KARL MARX, THE COMMUNIST MANIFESTO 36-37 (Henry Regnery Co. 1964) (1848) ("In depicting the... development of the proletariat, we traced the more or less veiled civil war, raging within existing society, up to the point where that war breaks out into open revolution, and where the violent overthrow of the bourgeoisie lays the foundation for the sway of the proletariat." (emphasis added)).


164. I haven't read all of Feldman's half-million or so published pages on pomo (maybe next winter), but Richard Delgado (one of Feldman's vetters) counsels us to limit our critiques to contemporary positions—not older ones that the author may have abandoned. See Delgado, supra note 114, at 1064-65; cf. RULES FOR POSTMODERNISTS, supra note 4, No. 332 ("Mutate."). So why not?

165. See generally PATRICIA M. SPACKS, BOREDOM, at ix (1995) ("The title of this book straightforwardly announces its subject but it hardly suggest that subject's complexity." (emphasis added)).


167. See supra text accompanying note 97.
lier critic Ron Krotoszynski) get 'em; Feldman doesn't. That's OK.

3. Parodies Are "Mean-Spirited"

One of my favorites. Feldman accuses me of being "mean-spirited" because (he asserts) I distort pomo, and because I "want others to join [me] in the mockery, to castigate [it] . . . for being 'laughable.' ”

Well, innocent on the first charge, and guilty on the second. (But on Feldman's reasoning, all parodies are "mean-spirited.") And for me to suggest laughter, after all, seems a wholly moderate response to law-school pomo. Anger at the insincerity, intellectual condescension, pretension, sleight-of-hand, doublespeak, and hubris of the overwhelming bulk of postmodern "scholarship" (not to mention its inextricably interrelated antideocratic, Derridean, counterproductively divisive, neo-Marxist political conclusions)

168. See supra note 77 (quoting Krotoszynski). Somehow, I suspect that Leo Strauss would have figured it all out, too. See LEO STRAUSS, PERSECUTION AND THE ART OF WRITING 24-25 (Univ. of Chicago Press 1988) (1952):

The expression "writing between the lines" indicates the subject of this article.
For the influence of persecution . . . is precisely that it compels all writers who hold heterodox views to develop a peculiar technique of writing . . .
. . . . The attack, the bulk of the work, would consist of virulent expansions of the most virulent utterances in the holy book or books of the ruling party. The intelligent young man who, being young, had until then been somehow attracted by those immoderate utterances, would now be merely disgusted and, after having tasted the forbidden fruit, even bored by them. Reading the book for the second and third time, he would detect in the very arrangement of the quotations from the authoritative books significant additions to those few terse statements which occur in the center of the rather short first part.[;

cf. Richard Pevear, Foreword to FYODOR DOSTOEVSKY, DEMONS, at xiv (Richard Pevear & Larissa Volokhonsky trans., Vintage Classics 1995) (1872) ("[A] certain clumsy use of parentheses . . . [is Dostoevsky's] deliberate mockery of [Nikolai] Chernyshov's writing."); id. at xiv-xv ("Dostoevsky . . . was challenged to reveal 'the man in man,' precisely in and through the ideas of the new radicals themselves. . . . But the reversal is not a simple contrary; it is the puncturing of a literary cliché by a truth drawn from a different source . . . .'”).

169. See supra text accompanying notes 146-47 (quoting Feldman). [And while we're contemplating what Feldman doesn't "get," the "[sic]" that Feldman adds while quoting an excerpt from Pomobabble, see Feldman, supra note 21, at 2353-54, perhaps also suggests that he doesn't "get" my wordplays, either. But cf. Arrow, Pomobabble, supra note 2, at 464 & n.9 (inserting a footnote in the middle of the word to assist those who might not otherwise have "gotten" that one to do so).]

170. Feldman, supra note 21, at 2358.

171. Cf. supra note 138 (quoting Stanley Fish—one of Feldman's "good" postmodernists—perhaps supporting the inference that naming it scholarship [without the scare quotes] would empower it to "sail under false colors").

172. Remember (at least for present purposes), it's Feldman who's linked law-school pomo to "Derridean deconstruction." See supra note 14 (quoting Feldman).
might be an even more appropriate reaction. But I haven't suggested that postmodernists be burned at the stake, and unlike Feldman's "good," "metamodernist" postmodernist Stanley Fish, I haven't even thought of it. [Well actually, now that I do think of it . . . .]

Nor, as Paul Carrington suggested with respect to the CLSers a generation ago (and law-school pomo, as everybody knows, is nothing but French-Fried CLS), have I suggested that

173. But cf. infra note 180 (perhaps suggesting yet another alternative).
174. Cf. WHITMAN, supra note 107, at 1 (emphasis added):
A Phantom arose before me with distrustful aspect,
Terrible in . . . age, and power,
The genius of old lands,
As to me directing like flame its eyes,
With finger pointing to many immortal songs,
And menacing voice, What singest thou? it said
Knowest thou not that there is but one theme for ever-enduring bards?
And that is the theme of War, the fortune of battles,
The making of perfect soldiers.
Be it so, then I answer'd,
I too haughty Shade also sing war, and a longer and greater one than any . .
Lo, I too am come, chanting the chant of battles . . . .]
FRANZ A. KAFKA, AMERIKA 3 (Willa Muir & Edwin Muir trans., Schocken Books 1962) (1927) ("[A] sudden burst of sunshine seemed to illuminate the Statue of Liberty. . . . The arm with the sword rose up as if newly stretched aloft . . . ."); MANN, supra note 30, at 252-53 (narrating the thoughts of Sirenius Zeitblom, Ph.D.) (emphasis added):
That the flabby DEMOCRACIES did know after all how to use these frightful tools is a staggering revelation, weaning us daily from the mistaken idea that war is a German prerogative. . . . We await the attack, from all sides, with preponderance of material and millions of soldiers on our European fortress—or shall I say our prison, our madhouse?]

CONRAD, supra note 20, at 58 (quoting Marlow: "I had . . . judged the jungle of both banks quite impenetrable—and yet eyes were in it, eyes that had seen us."); id. at 75 ("[A] cry arose whose shrillness perched the still air like a sharp arrow flying straight to the very heart of the land . . . ."); id. at 60 ("Arrows, by Jove! We were being shot at!"); JUDITH TARR, ARROWS OF THE SUN (1993) (emphasis to title added); PYNCHON, supra note 35, at 836 ("Maybe I was a Melvin Purvis G-Man. . . . For Post Toasties. For whom? The German actually thinks Post Toasties is the name of some American Fuhrer . . . ."); supra note 107 (quoting Gertrude Stein: "[P]erhaps Europe is finished."); CONRAD, supra note 20, at 86 (quoting a voice from the wilderness: "Mistah Kurtz—he dead.").


175. See supra note 156 (quoting Feldman).
176. Cf. MacFarquhar, supra note 39, at 71 (quoting Fish):
If conviction is not simply a component in an endless liberal debating society, there is always going to be some point at which you are going to say, "Not X; them we burn." And if you are never willing to say that, it is hard to see what you are doing and why you should continue doing it.
177. See generally STEIN, supra note 43, at 134 ("IF NOT WHY NOT." (emphasis added)). [Surely not those passé, liberal principles (gasp) of reason, toleration, and mutual respect . . . .]
Professor Feldman (or any of his co-pomoers) depart the legal academy.178 [Perhaps along with Stanley Fish, however, I admit to wondering about his professorial title,179 and wonder as well why anybody who wasn’t a terminally-desperate Leftist Visionary would want to hire more of ’em (perhaps for the privilege of reading even more of the “talk about talk” stuff, over and over again?180).]

And I haven’t even suggested that American law reviews stop publishing the pomobabble that the Pomo Corps cranks out. [Though come to think of it, sending a copy of this Essay to each of the editors at the top twenty reviews each spring for the next ten years might be an interesting empirical experiment, and one that might cause the pomoers to re-evaluate the sustainability of their (gasp!) duality between “talk about talk” epistemology and the scientific method.181]

But Feldman finds my desire to invoke laughter about pomo to be “ad hominem” and “distasteful.”182 I’ve responded to the former charge above,183 so I won’t rehearse it here. As to the latter, if I’m “mean-spirited” for parodying pomo, I’m in excellent company once again, since as readers of this Essay will note, pomo’s such a fat and hubristic target that it’s generated responsive satires and parodies too numerous to count. But more fundamentally, Dostoevsky knew well why Urgent revolutionaries need so desperately to be taken seriously:184 it’s hard to generate Urgency while your marks185 are rolling on the floor.186 But isn’t comedy now better than tragedy later?

179. See supra note 138 and accompanying text.
180. See, e.g., supra note 154 (quoting Feldman writing about talking about talk). But cf. L’HEUREUX, supra note 3, at 228 (emphasis added):

[T]he fools . . . laughed . . . at . . . Kurtz’s plan to supplant English with a Department of Theory and Discourse. It was a hoot . . . as so much of the ["]theory["] stuff was, just more fascist bullying from the new right wing. As if books were improved by calling them discourse. . . . [I]t was FUN to puncture balloons and belittle pomposity and, specifically, to call un sac de merde a bag of shit.

See generally id. at 50 (“They had seen Kurtzes come and go.”).
181. See generally supra note 154 (commenting on Richard Rorty’s and Mary Joe Frug’s preference for the former over the latter); Feldman, supra note 21, at 2365 n.54 (quoting Feldman—in the longest footnote of his essay—revealing that it is very important to him where his work gets published).
182. Feldman, supra note 21, at 2358; cf. infra note 194 (commenting, inter alia, on “sensitivity”). See generally RULES FOR POSTMODERNISTS, supra note 4, No. 230 (“Politicize your aesthetics, aestheticize your politics.”).
183. See supra notes 87-89 and accompanying text.
185. Cf. HEINLEIN, supra note 21, at 267 (“[M]arks weren’t people; they were blobs whose sole function was to cough up cash.”).
And wait! Isn’t pomo (at least as Feldman tells the tale) supposed to be “playful[ ]”? And again I’ll leave it to the reader to decide whether Feldman’s or my own writing better satisfies that criterion. And given the pomoers’ commitment to the subjectivity of—well—everything, you might think they’d agree that humor (among all things) is subjective, too. [What does Feldman think anti-parody is: a transcendent and Master Narrative neutral principle?] In expressing his distaste for my (all?) satire, has Feldman

186. Cf. J.T. Knight, Comment, Humor and the Law, 1993 Wis. L. Rev. 897, 897 (“[H]umor may help expose ideology in articles where opinion is disguised as neutrality . . . .”); Pevear, supra note 16, at ix (“[L]aughter creates the distance that allows for recognition.”); ALINSKY, supra note 123, at 128 (“Ridicule is man’s most potent weapon.”). But cf. Arrow, supra note 2, at 650-56 n.50 (exploring the mal humor component—and the dead serious tone—of law-school pomo); J. BRONOWSKI & BRUCE MAZLISH, THE WESTERN INTELLECTUAL TRADITION 252 (1960) (“[S]atire is intimately connected with urbanity and cosmopolitanism, and assumes a civilized opponent . . . . To hold something up to ridicule presupposes a certain respect for reason, on both sides, to which one can appeal.”); ECO, supra note 149, at 468 (quoting from the lost manuscript of the second book of Aristotle’s Poetics—before Jorge ate the book) (emphasis added):

[A]lone among the animals—man is capable of laughter. We will . . . examine the means by which comedy excites laughter, and these means are actions and speech. We will show how the ridiculousness of actions is born from . . . arousing surprise through deceit, from the impossible . . . from the debasement of the characters . . . from the use of . . . vulgar pantomime, from disharmony, from the choice of the least worthy things. We will then show how the ridiculousness of speech is born from the misunderstanding of similar words for different things and different words for similar things, from garrulity and repetition, from play on words . . . from errors of pronunciation, and from barbarisms.

But cf. CYRA MCFADDEN, THE SERIAL 13 (1977) (“No one could call Kate Humorless. She never missed Doonesbury . . . .” (emphasis added)).

187. Feldman, supra note 21, at 2368. Maybe not. See supra text accompanying note 182 (also quoting Feldman).

188. See generally RULES FOR POSTMODERNISTS, supra note 4, No. 47 (“Stake all on the charisma of the storytellers.”).


190. See Knight, supra note 186, at 899 n.16 (“The task of discerning what is . . . humorous from what is not is inherently subjective. This observation is provided by standpoint epistemology, or as it is also known, situational comedy.”).

191. But cf. FISH, supra note 53, passim (arguing that “neutral principles” don’t exist). I would have thought that Feldman would have agreed with Fish’s proposition. But maybe Feldman’s just following another (and also, of course, a doublethink) Fish proposition. See supra note 118 (quoting Fish, responding to a question: “‘Although you bill yourself as being ‘against principles,’ doesn’t your own argument suggest that you would have recourse to the vocabulary of principle if it suited your ends?’ ‘Right.’ ”).

Spaceball, again? Feeling handled, once more? Dèjà vu, all over again?
given Ronald Dworkin yet another paradigmatic example to use in establishing that pomo writing is only of "biographical" interest—

if Feldman's given us cause to be interested in him at all?

Finally (while, of course, being appropriately "respectful" before throwing cold water on pomo's adjective-and-metaphor-party), for Feldman to imply that I mock (and perhaps beat up) little handicapped girls on school playgrounds is just too much! [And if I find out who ratted me out, I'm going to beat the h

4. I Don't Critique Pomo On Its Own Terms

I don't? 

192. See text accompanying note 142 (quoting Dworkin).

193. See generally WAYNE C. BOOTH, THE RHETORIC OF FICTION 220 (1961) ("Interesting narrators are interesting.").

194. After William Ewald revealed Seventies Messiah Roberto Unger (who was then being talked about worshipfully—and hopefully—as the "new Karl Marx") to be something of a dilettante (if not an intellectual charlatan), see William Ewald, Unger's Philosophy, A Critical Legal Study, 97 YALE L.J. 665 (1988), Cornel West pioneered Feldman's (and Krotoszynski's) deflective tactic by characterizing Ewald's work as a "mean-spirited academic putdown," Cornell West, CLS and a Liberal Critic, 97 YALE L.J. 757, 758 (1988). West's prescription? That Ewald should have been more "respectful" and "guarded." Id. at 757. But cf. DOSTOEVSKY, supra note 16, at 175 ("[E]xcuse me, we will talk about harshness and mildness later, and for now I only ask you to answer the first question: Is everything I said true, or not?" (emphasis added)). But cf. L'HEUREUX, supra note 3, at 175 ("You've hurt my feelings. Some of us are more SENSITIVE than others.") (emphasis added); ENGELBERT HUMPERDINK, Feelings, on FEELINGS (Special Music 1996) ("Feelings. Wo wo wo feelings. Wo wo wo feelings . . ."). But cf. MacFarquhar, supra note 39, at 64 (quoting Walter Benn Michaels, who Stanley Fish (tongue-in-cheek) suggested appointing as the head of the Afro-American Studies department at Chicago Circle: "My work is not interested in the feelings of anybody."); WURTZEL, supra note 16, at 326 ("Taking a hypersensitive approach to life had come to seem so . . . pure . . . . What I'd stopped realizing was that if you feel everything intensely, ultimately you feel nothing at all.").

195. See supra note 154 (quoting Feldman: "Perhaps . . . ."); cf. supra text accompanying note 73 (quoting the abstract to Pomobabble, which parodies Feldman's "perhaps"—four years before he wrote it).

196. See Feldman, supra note 21, at 2358; cf. RULES FOR POSTMODERNISTS, supra note 4, No. 125 ("Exhibit the mark of the Other.").

197. At one point, Feldman recognizes that Pomobabble's style is postmodern. See Feldman, supra note 21, at 2367. [I'm purposefully omitting Feldman's predictable hedges, qualifiers, and evasions; the reader can by now intuit what they'll be.] At another, earlier point (where he seems just a bit more miffed), he suggests (with the predictable caveats) that Pomobabble's just "bad postmodernism."

Actually, he's right (sort of) of both times (at least by his own definitions—which he doesn't practice). The style of Pomobabble is postmodern (though not deconstructionist postmodern, which to Feldman is the only kind that counts) in that it's playful and makes reference to agglomerations of fragments to illustrate my points. Cf. Arrow, Messiahism, supra note 14, at 165 n.31 ("In fact, the string-citation style found in most of Pomobabble's footnotes is an illustration of how the fragments that the postmodernists think they have permanently deconstructed (and then some) may be pieced back together—to reveal a truth more enduring and complex . . . than
And even if I didn't, why should I?198

they can even imagine.

But since I'm not a slavish, power-paradigm, neo-Marxist linear thinker (and Feldman does practice the "Derridean political deconstruction" component of his pomo definition), by Feldman's definition, see supra note 14 (quoting Feldman), mine's "bad" pomo since my conclusions (unlike his) aren't monotonic.

198. Even Feldman seems to be aware that he has no answer to this one. Cf. Feldman, supra note 21, at 2366 n.60 ("[T]he same problem appears in reverse. That is, postmodernists tend to portray modernists in postmodern terms or categories, which the modernists tend to reject."). Apart from that, of course, Feldman's self-privileging skyhook would require us to critique Hitler from an anti-Semitic perspective, and so on.

But that's too easy: how 'bout a defense—a substantive one, at that, cf. FISH, supra note 53, at 3 ("[T]he word ... substantive ... is the key. ...")—of logic and scientific method? I suspect I'll not be able to do much better than W.V. Quine and E.O. Wilson on those fronts. Quine gives us a premise on the basis of which we might address a pretty good question to Feldman:

Let us not underestimate the price of a deviant logic. There is a serious loss of
simplicity, especially when the new logic is not even a many-valued truth-
functional logic. And there is a loss, still more serious, on the score of familiar-
ity. ... The price is perhaps not quite prohibitive, but the returns had better be

good.

QUINE, supra note 122, at 86; cf. DERRIDA, supra note 8, at 27 ("This is where our question would come in.").

[UHHHHHH . . . PROFESSOR FELDMAN? What's the payoff?]

And on the empiricist front (postmodernists, don't get your hopes up: I'm not going to try to
"prove" the existence of the real world on the basis of your mystical, anti-realist, and clandest-
ineu two dualist "epistemology," which takes as an article of faith that nothing nonmathematical

... can be "proved"), let's turn for a moment to E.O. Wilson, who raises even a more fundamental
issue:

Only in the last moment of human history has the delusion arisen that people
can flourish apart from the rest of the living world. Preliterate societies ... struggled to understand ... that the right responses gave LIFE and fulfillment, the wrong ones sickness, hunger, and DEATH. The imprint of that ... is to be
found among the particularities of human nature. ... We do not understand
ourselves yet and descend farther from heaven's air if we forget how much the
natural world means to us.

Edward O. Wilson, The Environmental Ethic, 3 HASTINGS W.-NW. J. ENVTL. L. & POL'Y 327, 330-
31 (1996) (emphasis added). And if that's too "Enlightenment," there's always Emerson:

Is chemistry suspended? Do not the electricities and the imponderable influences play with all their magic undulations? Do not gravity and polarity keep

their unerring watch on a needle and thread[?] ... You find the times and places mean. My friend, stretch a few threads over a common Æolian harp, and

put it in your window, and listen to what it says of the times and the heart of

Nature. ... Watch the breaking morning, the enchantments of the sunset.

RALPH WALDO EMERSON, NATURAL HISTORY OF INTELLECT 129-30 (AMS Press 1979) (1904). But
cf. infra note 262 (contemplating the type of thinking that occurs exclusively in rooms).

Assuming for the sake of argument that life and survival are better than [D]eath and
[Ex]tinction, but cf. supra note 35 (positing a mindset in which the former poles of those "dual-
ities" would not be "privileged" in that manner), it's hard to see how Feldman's deviant logic and

anti-realist epistemology generate any advantages. They're supposed to, of course, intellectually
(or at least psychologically) "decenter" the gullible so that the marks will trust the neo-Marxist,
class-warfare, anti-individualist conclusions of the "decenterers." Cf. supra note 21 (quoting
George Orwell on Winston's intellectual submission to O'Brien's totalizing political

CONCLUSIONS); Arrow, Messianism, supra note 14, at 170 ("Since reasoning is irrelevant in the
postmodern academic world (where only conclusions matter), how your law review articles got to
their conclusions is necessarily ... ignored."). Except for those with intelligence levels so mar-

ginal that the value of their support is nil, however, it doesn't work like that: "Realizing that we
Finally, Feldman challenges what he apparently concludes is the central thrust of my writing on postmodernism, responding that "the claim that postmodern legal scholars cannot be political advocates is so inaccurate as to be outrageous."199 "[M]any postmodernists, especially200 deconstructionists, are overtly political,"201 he announces. Feldman then hears me braying:202 "Once again," he says, "I can practically hear Arrow exclaiming, 'What hogwash! What about the postmodern critique of normativeness? Doesn't that postmodern nonsense preclude any claims to justice or social change?"203

The sentient might conclude that Feldman's either been listening to the *Sounds of Silence*204 or deploying a postmodern "aid."205 They might also conclude that those colorful descriptions are more appropriate under the circumstances than the more benign name, "straw man."

What Arrow might say (sing?) is that "the postmodern nonsense" is "insincere, hypocritical, largely uttered for its 'decentering' effect,208 and few in or out of the Pomo Corps have taken it seriously at purported face value for decades."207 Arrow might also inquire: "Do you really expect us to swallow that 'critique of normativeness' stuff whole, as the only thing in the postmodern pantheon to be taken *literally* (whatever that means), as *sincerely proffered*, as non-irony laden, and as *(gasp!)* TRUE?" Arrow might wonder: "At

lack a godlike perspective on the world . . . leaves us exactly where we were before." MacFarquhar, *supra* note 39, at 68 (quoting Stanley Fish).


200. By virtue of a prescription he put forward only last year (which Feldman fully understands was by no means original, see Feldman, *supra* note 14, at 53), apparently all postmodernists *should* be deconstructionists. *See id.* (criticizing James Risser's approach to harmonizing Gadamerian hermeneutics with Derridean deconstruction as "primarily Gadamerian").


204. Simon & Garfunkel, *The Sounds of Silence*, on WEDNESDAY MORNING, 3 A.M. (Columbia Records 1964) (*Hello darkness my old friend . . . .*).

205. *Cf. Rules for Postmodernists*, *supra* note 4, No. 136 ("Misread.").

206. *See supra* note 198 (providing a condensed explanation of the effect it's *supposed* to have); Arrow, *Pomobabble, supra* note 2, *passim* (providing a more rich, textured, nuanced, and comprehensive treatment of the matter).

207. *Cf. L'Heureux, supra* note 3, at 30 (quoting Kurtz: "Robbie[s]'s hung up on THEORY—he thinks THEORY is what's in question here, RATHER THAN THE LARGER PICTURE, WHICH, NEEDLESS TO SAY, HE DOESN'T GET . . . ." (emphasis added)).
what level of reader intelligence does Feldman think he can persuade that he (and/or other postmodernists) have dedicated their lives to generating millions of pages of pomo out of an abiding and pious desire to write their forty-ninth ‘Gadamer and Standpoint Interpretation’ article for the Journal of Hermeneutics and Humanities, or an equally fervent abstract commitment to the pure principle of anti-realist, anti-empirical, crypto-mystical standpoint epistemology?” Arrow might genuinely be suspicious about whether Feldman wrote An Arrow without ever reading (or at least understanding) The Arrow’s work.

Were those questions (and observations) too subtle, Arrow might respond to Feldman more directly: “Your assertion under-states its own potential force by orders of magnitude.” Or phrased another way, “THE PART OF POMO THAT’S NOT SMOKE AND MIRRORS (AND THE SMOKE AND MIRRORS PART INCLUDES THE NAMES) IS NOTHING BUT LEFTY POLITICS, STEVE.”

[Wow, it’s rough to be forced to make such sweeping concessions; I really got my tail kicked on that one.]

D. Feldman the Modernist

Perhaps especially after coming through a section like the last one, let’s consider a final ironic possibility: that Feldman, too, is a rational, Enlightenment modernist who’s himself parodying law-school pomo. After all, in Pomobabble, it took me two-hundred-plus pages to explore it comprehensively (though I admittedly delved deeper into the postmodern psyche than did Feldman), while Feldman exposed most of its hypocrisies and absurdities in a tenth that. Is his spectacular (and on the fundamental issue, total) misinterpretation of my work supposed to parody the postmodern penchant to misread? And reading a representative sampling of Feldman’s work reveals an over-the-top, hyper-Enlightenment

208. Cf. James R. Squire & Barbara L. Squire, Editor’s Note to Olivia Coolidge, The Tricky of Hermes, in GREEK MYTHS AND LEGENDS 34 (James R. Squire & Barbara L. Squire eds., 1967) ("Hermes... began his career as God of Thieves on the day he was born."); Coolidge, supra, at 38 (quoting Hermes, addressing Apollo, after Apollo had discovered his theft and dissembling: ‘Wait, listen...’ and he pulled out his lyre."); Arrow, Pomobabble, supra note 2, at 564 (defining “Hermes”—in Pomoland: “the possessor (are you following me?) of the greatest lyre of them all”). See generally Arrow, supra, at 566 (defining “interpretation”—in Pomoland: “see ‘Hermes’

209. See supra notes 154, 195 (commenting on Feldman’s “perhaps”).

210. See RULES FOR POSTMODERNISTS, supra note 4, No. 240 ("Take irony for granted."); cf. id. No. 37 ("Don't despair at the absurd, go with it.").

211. "I felt as though... I were about to set off for the centre of the earth." CONRAD, supra note 20, at 27.
touch: having discovered early on a phenomenon that can't be fully described clearly (as at least pomo's mystical components, of course, cannot be), Feldman's now devoted most of his career to trying to explain it clearly (at least, he claims as much)—over and over again.

We might well recognize in the background of that apparently immutable commitment a rather Enlightenment instinct to carefully examine (and rationalize) previously unexplainable phenomena to abate a fear of the unknown. And paradoxically, Feldman's Derridean instinct to (at least profess to) Redeem the World by Saving "Marginalized Others" from the hegemony of the privileged (which is manifestly the Big Idea that Possesses him) exhibits what may perhaps be a subconscious desire for a rather comprehensive and totalizing Order (which also often accompanies an exaggerated fear of the unknown). Apparently (at least purportedly), Feldman's also willing to chuck into the abyme anything in

212. But cf. Arrow, Pomobabble, supra note 2, at (giving it a try); id. at 521-39 n.29 (exploring related psychological issues).

213. See Feldman, supra note 21, at 2365 n.54.

214. And we all take him literally (whatever that means to a postmodernist), don't we? Compare, e.g., DERRIDA, supra note 92, passim, with BROOKS, supra note 107, at 132 ("What [Whitman] loved especially in the seething AMERICAN population was its freedom, its alertness, its freshness and turbulent good nature, THE CLEAR EYE THAT LOOKED STRAIGHT AT YOU." (emphasis added)), and id. at 129 (emphasis added):

Whitman delighted in Carlyle, much as [Whitman] disliked . . . Carlyle's reactionary doubts and fears. He felt that nations, like individuals, learned most from a sincere opponent, from the light thrown even scornfully on [their] dangerous spots, and that . . . America needed the warnings and threats of this CANDID . . . enemy of the democratic programme.


216. See, e.g., Feldman, supra note 21, at 2358-59; Feldman, supra note 14, passim; cf. ALFRED J. AYER, LANGUAGE, TRUTH, AND LOGIC 45 (Dover Publications, Inc., 2d ed. 1946) (1935) ("If the author writes nonsense, it is because he considers it most suitable for bringing about the effects for which his writing is designed.").

217. Cf. Feldman, supra note 21, at 2375 n.96 ("Perhaps . . .").

218. Cf. JANE AUSTEN, EMMA (Barnes & Noble Press 1996) (1815) (contemplating the hubris of immaturity); L'HEUREUX, supra note 3, at 223 ("There were lives . . . out of balance. Fates not yet enacted. Ultimates unachieved. Olga, like academics everywhere, was experiencing the need for closure."). But cf. Martin H. Redish & Gary Lippman, Freedom of Expression and the Civic Republican Revival in Constitutional Theory: The Ominous Implications, 79 S. CAL. L. REV. 267, 310 (1991) ("The . . . transformation of one's personal ideal, impulses, and values into an external structure that others are meant to inhabit is a familiar temptation for scholars. Unfortunately, the projectors of such worlds too often 'stack the deck' from the outset, reserving the privilege of control for themselves."); Arrow, Pomobabble, supra note 2, at 660-61 (defining "totalitarianism"—in Pomoland).

219. See supra notes 157-65 and accompanying text. See generally J. Hillis Miller, Stevens Rock and Criticism as Cure (pt. 1), 30 GA. REV. 5, 11 (1976) ("Abyme is an older variant of the modern French abîme, from late Latin abyssus, from Greek abussos, without bottom.").
pomo that he can't explain clearly.\textsuperscript{220} (At least pseudo)-modernist, to the core.

And what about his dismissive characterization of Pomobabble's sources, as merely "famous literary figures who have, at most, TENOUS CONNECTIONS TO LAW AND JURISPRUDENCE?"\textsuperscript{221} I thought that "policing the borders" stuff was passé,\textsuperscript{222} and even though Feldman seems to think so at other junctures,\textsuperscript{223} perhaps he's a bit conflicted on the subject. [And anyway, by citing the words of the "famous literary figures" themselves (and not only their "hermeneutic" interpreters), I thought I'd be elevating the law-and-literature discourse, which now seems to be overrun by law professors with graduate-level training in English and Comp Lit who've learned nothing about the human condition (and psyche) from great literature—but whatever there is to know (such as it is) about reader-response "interpretation" (and deconstruction) from their pomoized grad-school professors.\textsuperscript{224}]

\textsuperscript{220} "'Fear of the unknown,' diagnoses this gray eminence . . . ." PYNCHON, supra note 35, at 860 (emphasis added).

\textsuperscript{221} Feldman, supra note 21, at 2355 (emphasis added).

\textsuperscript{222} Arrow, Pomobabble, supra note 2, at 465 n.10 (quoting John McGowan noting the postmodernist argument that disciplines attempting to preserve their autonomy were the product of "mixed motives"—or worse); Mootz, supra note 35, at 394 ("At a philosophical level the closure of law is a denial . . . of the substance of legal tradition . . . ."); Feldman, supra note 21, at 2371-72 (quoting Jack Balkin: "[I]nterdisciplinary scholarship seems to be all the rage.").

And wow! Is that rage ever "complex!":

Stanley Aronowitz misuses the term "unified theory." The feminist theorist Luce Irigaray deplores mathematicians' neglect of spaces with boundaries, though there is a huge literature on the subject. The English professor Robert Markley calls quantum theory nonlinear, though it is the only known example of a precisely linear theory. And both the philosopher Michael Serres . . . and arch-postmodernist Jean-François Lyotard grossly misrepresent the view of time in modern physics.

Stephen Weinberg, Sokal's Hoax, N.Y. REV. BOOKS, Aug. 8, 1996, at 11, 12. Compare id. with, e.g., Arrow, Pomobabble, supra note 2, at 543-44 n.30 (quoting Weinberg, Stephen Toulmin, John Van Neumann, on Louis Narens defending empiricist theories of knowledge), and infra note 237 and accompanying text (perhaps wondering whether the law-and-literature folks have read—or understood—any great literature). But cf. L'HEUREUX, supra note 3, at 183 ("Oh, don't be stuffy," Eleanora said.").

\textsuperscript{223} See supra note 222.

\textsuperscript{224} Cf. Lintrichia, supra note 5, at 64 (emphasis added):

I believe that what is now called literary criticism is a form of Xeroxing. Tell me your theory and I'll tell you in advance what you'll say about any work of literature, especially those you haven't read. Texts aren't read; they are preread. All of literature is x and nothing but x, and literary study is the naming (exposure) of x. For x, read imperialism, sexism, homophobia, and so on.[]

RULES FOR POSTMODERNISTS, supra note 4, No. 328 ("Read classics and comics the same way."). And now you've just learned everything there is to know, too—without either the waste of time or the Ivy League (or, at least formerly, Duke's) grad-school tuition.
But then, enough about Feldman. It’s time to talk about me.225

E. Arrow the Postmodernist

Perhaps226 I am a postmodernist (as Feldman, in a half-hearted attempt to “flip” me, suggests at one point227)—or at a minimum, perhaps whether I’m a postmodernist or not is an “interesting” question. To take off on Bill Clinton’s most famous postmodern aphorism, it would all depend on what the meaning of the word “postmodernism” is, wouldn’t it?228 Obsessed as he is (and as he must be by virtue of his professed “talk-about-talk” epistemology (to continue to exist himself229)) with names, and desperate that the pomo brand name not die, he at one point names . . . well, everything “postmodern.”230 But by that approach, even the legal pad I’m now writing this on fits the definition, so we might just as well name it (whatever it is) “universe”—or “The Arrow”—or “Steve.”

Nor can “postmodernism” be interdisciplinary legal scholarship, since though it’s useful to pomo (especially, for “decentering” purposes, the bad stuff231), there’s nothing distinctively pomo about

225. Cf. RULES FOR POSTMODERNISTS, supra note 4, No. 2 (“Implicate yourself in every interpretation.”); id. No. 66 (“Do something, anything, to attract highly-mobile capital.”); id. No. 160 (“Fight for attention.”).

226. You know the routine by now.

227. See Feldman, supra note 21, at 2368-71.


230. See Feldman, supra note 21, at 2369-70.

231. See supra note 222 (identifying the tip of the iceberg, and commenting on same); cf. Lentricchia, supra note 5, at 65:

An advanced literature department is the place where you can write a dissertation on Wittgenstein and never have to face an examiner from the philosophy department. [NOTE TO FRANK LENTRICCHIA FROM THE STILL MARGINALLY AUTONOMOUS DISCIPLINE OF LAW: THERE’S THIS CONCEPT CALLED “ASSUMING FACTS NOT IN EVIDENCE” . . . ] An advanced literature department is the place where you may speak endlessly about gender and never have to face the scrutiny of a biologist [BETTER], because gender is just a social construction, and nature doesn’t exist.
it.\textsuperscript{232} Nor can it be the Gadamerian "hermeneutics," since that one's not even Gadamerian, but traces back at least to the reign of Gordian III,\textsuperscript{233} if not to primitive mystics and Hermes' lyre.\textsuperscript{234} Nor the epistemological agnosticism,\textsuperscript{235} since that one also traces back to the ancients,\textsuperscript{236} and because nobody's thought (at least since fifth grade\textsuperscript{237}) that he could "prove" that the sun was hot on the basis of an epistemology that as a \textit{premise} rejected empiricism as the answer.\textsuperscript{238} As if it even mattered.\textsuperscript{239} And Feldman's sent everything else over the cliff.\textsuperscript{240}

So is there anything that's left that's "postmodern?" And if not, \textit{why do we need the name}? And if we don't (and in consequence Feldman no longer needs to be talked about), can he continue to \textit{exist}, given his talk-about-talk epistemology and ontology?\textsuperscript{241} \textit{Poof}\textsuperscript{242}

\begin{itemize}
  \item \textsuperscript{232} See Feldman, \textit{supra} note 21, at 2372 ("[I]nterdisciplinary scholarship is not unique to the postmodern era.").
  \item \textsuperscript{233} See \textit{Tolstoy}, \textit{supra} note 6, at 64 n.4 (tracing "\textit{Pro capto lectoris habent sua fata libelli}"—central to pomo's "reader response" "interpretation" (with or without the Gadamerian mysticism)—to Terentianus Maurus, writing c. 240 A.D.).
  \item \textsuperscript{234} See Arrow, \textit{Pomobabble}, \textit{supra} note 2, at 494-501 n.24; \textit{supra} note 208.
  \item \textsuperscript{235} See Feldman, \textit{supra} note 21, at 2370 ("Postmodern theorists . . . stress . . . that truth and knowledge are not grounded on an objective foundation.").
  \item \textsuperscript{236} See Arrow, \textit{Pomobabble}, \textit{supra} note 2, at 512 n.29 (commenting on Hume, Kant, Berkeley, the Talmud, Plato, \textit{zen}, and the fourth-century B.C. Taoist Zhuang Zi).
  \item \textsuperscript{237} \textit{See supra} note 21 (nostalgically reminiscing); \textit{cf.} \textit{Rules for Postmodernists, supra} note 4, No. 205 ("Manufacture nostalgia.").
  \item \textsuperscript{238} And postmodernists—\textit{spare} me (and future readers) the Clintonsque response about the meaning of the word "hot," \textit{puhleeeeeeze}? [Don't hold your breath; stuff like that being all they've got—they can't. And who said (doublethink with me for a moment here . . .) that it had to be interesting?]
  \item \textsuperscript{239} \textit{See supra} note 198 (quoting Stanley Fish on the nonexistence of any consequences flowing from the truth, falsity, or Steviness of postmodern talk-about-talk epistemology).
  \item \textsuperscript{240} \textit{See supra} notes 154-66 and accompanying text. \textit{See generally} \textit{Rules for Postmodernists, supra} note 4, No. 345 ("Downsize.").
  \item \textsuperscript{241} \textit{Cf. supra} note 21 (quoting Feldman on epistemology, and \textit{perhaps} ontology); \textit{supra} note 59 (quoting Feldman on ontology); \textit{supra} note 154 (commenting on Feldman's impersonation of Gadamer); \textit{supra} note 38 (quoting \textit{Rules for Postmodernists}: "Play language games—Your identity depends on it."); \textit{Nietzsche, supra} note 56, at 89 ("\textit{[W]hen you look long into an abyss, the abyss also looks into you.}" (emphasis added)). \textit{See generally Apocalypse Now} (Paramount Pictures 1979) (quoting Kurtz: "\textit{The horror, the horror.}" (emphasis added)).
  \item \textsuperscript{242} \textit{Cf. Virgil, The Aeneid} bk. V, at 126 (C. Day Lewis trans., Anchor Books 1953) ("These words: then he vanished, like a wisp of smoke, into thin air." (emphasis added)). \textit{See generally supra} note 198 (exploring the "so what?" question); Stanley Fish, \textit{Consequences, in Against Theory: Literary Studies and the New Pragmatism} 106, 110 (W.J. Mitchell ed., 1985):

  \textit{Theory [and by this Fish means "theory"] . . . will never succeed . . . because the primary data and formal laws necessary to its success will always be spied or picked out from within the contextual circumstances of which they are supposedly independent. The objective facts and rules of calculation that are to ground interpretation and render it principled are themselves interpretive products: they are therefore, always and already contaminated by the interested judgments they claim to transcend.}
F. An Extra Inning

But how can we forget Feldman's (and most other pomoers') Deconpomo [by Jove, another name?], with its monotonic and divisive ululations about victimology, class warfare, anti-individualist biopolitics, and "Marginalized Others"? But is that even distinctively "pomo"? If Feldman thinks that it is, is all that's left of "pomo" deconstruction?

If it is, we'll deal with that in short order. But for now, we might ask: even if that's the best Feldman did, is that really the best he (or someone else) could do? Francis Mootz, for example, might be on to something with his prescription for "dialogic openness," and his warning that anything claiming the "pomo" name becomes dysfunctional "when it becomes an exercise in self-assertion," devoid of a willingness to "put . . . one's own prejudices at risk." [You don't need either pomo or Gadamer's mystical dualism (which, as is customary with mystical dualisms, resolves itself

Miller, supra note 219, at 14 ("The House That Jack Built' turns back on itself, a snake with a tail in its mouth, or a snake almost succeeding in getting its tail in its mouth."); DAVID EDGAR, MARY BARNES 50 (1979):

DOUGLAS: All right. Shall we stop pretending?
HUGO: Yes. . . . Stop pretending what?
DOUGLAS: Well, for a start, let's drop this crap about no rules.
HUGO: Go on.
DOUGLAS: I will. Rule one. There are no rules. Rule two. It is against the rules to acknowledge rule one. Rule three. It is against the rules to acknowledge the existence of rules one or two.]

JOSEPH HELLER, CATCH-22, at 55 (Dell Publishing Co. 1961) (1955) ("That's some catch,' [Yossarian] observed. 'It's the best there is,' Doc Daneeka agreed. Yossarian saw it clearly in all its spinning reasonableness.").

243. Cf. MANN, supra note 30, at 245 (quoting you-know-who, on you-know-where):
True it is that inside these echoless walls it gets right loud . . . and by much overfilling the ear with screeching and beseeching, gurgling and groaning, with yauling and bauling and caterwauling, with . . . racking ecstasies of anguish no man can hear his own tune, for that it smothers in the general, in the . . . trills and chirps lured from this everlasting dispensation of the unbelievable combined with the irresponsible.

244. Cf. Feldman, supra note 14, passim (defending the relationship between what Gadamer names "philisophical" hermeneutics and Derridean deconstruction).

245. Alternatively, might Decon be Left of pomo? Cf. infra notes 246-60 and accompanying text.

246. Cf. Balkin, supra note 28, at 135 n.50 (invoking Ronald Dworkin's suggestion that critics should try to improve weak arguments before declaring them deceased).

247. Supra note 140 (quoting Mootz).

248. Mootz, supra note 35, at 395; see also Balkin, supra note 28, at 135 n.50 (citing Hans-Georg Gadamer in support of the identical proposition).
into mystical monism) to get there, but if that's what floats Mootz's boat, that's OK.] And speaking of mystical dualism, Danah Zohar has carried Mootz's (and Gadamer's) point so much further than they have that she might even cause Mootz to rethink Gadamer's limitations as a subject for lifelong study. (In the process of offering her authentically non-dualistic observations, Zohar also "flips" Larry Tribe's "new physics" metaphor):

The SPLIT between mind and body . . . gave rise to the dichotomy between extreme subjectivism (a world without objects) and extreme objectivism (a world without subjects). . . . Freud assumed that the inner was real and accessible, while the outer was all projection, and many strains of mysticism mirrored this view . . . . At the other extreme, Behaviourism assumed the outer was real but denied the relevance of the inner. It became psychology without the psyche.

The SPLIT between the individual and his relationships led on the one hand to an exaggerated individualism, to a selfish will to power . . . and on the other to an enforced communitarianism like that of Marxism . . . .

The SPLIT between culture and nature led both to relativism of all sorts—factual, moral, aesthetic and spiritual (value judgements)—and to dogma and extreme fundamentalism. . . .

The mechanical world-view fails, ultimately, because it does not work towards a greater, ordered coherence. It reflects neither the intuitions nor the personal needs of most people . . . .

The mechanical world-view . . . owes most to the dualist philosophy of Descartes and the mechanistic physics of Newton . . . .

. . . [T]he quantum world-view transcends the dichotomy between human culture and Nature, and indeed imposes the constraint of the natural upon the ultimate success of the cultural.

. . . It gives us a view of the human SELF . . . [which] is free and responsible . . .

Might this be the basis for a "new" postmodernism, since the old, linear-thinking Decon one's closer to putrefaction than rigor

249. Truth and Method, for those fortunate souls who've not found it necessary to read the book.
250. But don't bet on it. He's pretty heavily invested. But cf. infra notes 279-80 (quoting everybody, including Gadamer, hermeneutically deconstructing themselves—and each other).
mortis? No, how could I forget? It would just be “bad” postmodernism, since to abandon Foucault’s Power Paradigm is as unthinkable as freedom and responsibility themselves. (After all, that paradigm brought both him and his acolytes such joy!) And mon dieu! Look at Zohar’s “principles, conditions, or elements”:

1. The self? Isn’t that precisely the kind of evil, individualist, Ronald Reagan kind of stuff that Jack Balkin warned us about a decade ago?

2. And nature? And freedom? And responsibility?

3. In short, what about the POWER PARADIGM and DECONSTRUCTION, Foucault and Derrida?

253. See supra note 197 (quoting Feldman noting the existence of such a phenomenon); supra note 83 (citing Jack Balkin, agreeing).

254. Cf. Arrow, Pombabble, supra note 2, at 586-91 n.39 (discussing Foucault’s “happiness,” and “love”); supra note 160 (same); PYNCHON, supra note 35, at 483 (reproducing the lyrics to Victim in a Vacuum):

Nur... ein... Op-fer!
Sehr ins Vakuum,
Wird niemand ausnut-zen mich, auch?
Nur-en Sklave, ohne Her-rin (ya-ta, ta-ta)
Wer zum Teufel die Freiheit, braucht? []

TOM LEHRER, The Masochism Tango, on SONGS AND MORE SONGS BY TOM LEHRER (Rhino Entertainment Co. 1997):

Your heart is hard as stone or mahogany
That's why I'm in such exquisite agony.
My soul is on fire,
I'm aflame with desire,
As we dance to the Masochism Tango.[]

HEINLEIN, supra note 21, at 351:

With an ugh and a groan, and a kick of the heels,
Death comes quiet, or it comes with squeals—
But the pleasantest place to find your end
Is a cup of cheer from the hand of a friend! []

PYNCHON, supra note 35, at 844 (narrating Blicero’s final thoughts about Gottfried, a few moments before Blicero’s [D]eath: “’[Y]our immortality rips at my heart—can’t you see why I might want to destroy that stupid clarity in your eyes...’ Blicero has always made the decisions.” (emphasis added)).

255. See supra text accompanying note 144 (quoting Aristotle).


257. See Feldman, supra note 14, passim (defending same). Compare Feldman, supra, with Dan Froomkin, Derrida’s Presence Proves Prestigious, ORANGE COUNTY REG., May 9, 1993, at B2 (“Derrida teaches for only 15 days [a year] at UCI... [H]is office [on the Irvine campus]... has no books in it.”), and DELILLO, supra note 121, at 290-93 (quoting dialogue between J.A.K. and Murray) (emphasis added):

“Are you saying that men have tried throughout history to cure themselves to [D]eath by killing others?”

“To plot is to live,” he said.

“Are you saying a dier can become a killer?”
"I'm only a visiting lecturer. I theorize.... I have my students, my rented room, my TV set. I pick out a word here, an image there." [J]

and id. at 291 (quoting Murray) (emphasis added):

"Nothingness is staring you in the face.... The killer... attempts to defeat his own [D]eath by killing others...."

I looked at him, amazed. He drew contentedly on his pipe, making hollow sounds.

"Be the killer for change. Let someone... replace you... in that role.... KILL TO LIVE."[J]

and L'HEUREUX, supra note 3, at 245 (emphasis added) (ellipsis between paragraphs omitted):

The church clock began to sound the hour and for a second they stopped where they were—[Kurtz] with his hands at Rosalie's throat, Gil with his hands at [Kurtz's] throat—and the bell tolled slowly...[Kurtz] could see only black and he had a terrible pain in his chest. He felt strangely free.[J]

and DeLILLO, supra note 121, at 314-16 (quoting Mink, then J.A.K., and finally a nun) (ellipses between paragraphs omitted):

"Who shot me?" he said:
"You did."
"Who shot you?"
"You did..."
"What was the point I was trying to make?"
"You were out of control. You weren't responsible. I forgive you."

... It was no longer possible to tell whether the blood on my hands and clothes was his or mine. My humanity soared... We came to a [hospital]...

"We're shot," I said, lifting my wrist in the air.
"We see a lot of that here..."

and FRANK NORRIS, McTEAGUE (Signet Classics 1967) (1899):

Suddenly the men grappled.... McTeague did not know how he killed his enemy, but all at once Marcus grew still.... Then there was a sudden last return of energy. McTeague's right wrist was caught; something clicked upon it; then the struggling body fell limp....

... Looking down, he saw that Marcus in that last struggle had found strength to handcuff their wrists together.... All about [McTeague], vast, interminable, stretched the measureless leagues of Death Valley.

See generally PYNCHON, supra note 35, at 770:

Understand it isn't [Enzian's] blackness, but [Katje's] own—an inadmissible darkness she is making believe for the moment is Enzian's, something even beyond the center of Pan's grove, something not pastoral at all, but of the city, a set of ways in which the natural forces are turned aside, stopped down, rectified or bled to ground and come out very like the malignant dead... souls whose journey across was so bad that they lost all of their kindness... and turned to imbecile killers and jokers, making unintelligible honks in the emptiness... a city darkness that is her own, a textured darkness in which flows go in all directions, and nothing begin, and nothing ends. [J]

MANN, supra note 2, at 69 ("For a moment I felt myself the older, more mature."); id. (quoting a dialogue between the Devil and Adrian) (ellipsis between paragraphs omitted):

"Do you consider love the strongest emotion?" he asked.
"Do you know a stronger?"
"Yes, interest."

"By which you presumably mean a love from which the animal warmth has been withdrawn."

"Let us agree on the definition!" he laughed. "Good night."
4. And most importantly of all: What about “Us”\textsuperscript{258}—and Our roles in Saving the Marginalized\textsuperscript{259} (or at least, in so POISING\textsuperscript{260})?

In even contemplating a pragmatic [not “pragmatic”], non-linear-thinking pomo (i.e., one without the foreordained Lefty conclusions), The Arrow has flown amok.

V. CONCLUSION

While Heidegger's proto-mysto rhetoric really riled up the proles,\textsuperscript{261} pomo's (even more than CLS's) has a freeze-dried flavor,\textsuperscript{262}

\textsuperscript{258} Cf. Arrow, supra note 2, at 663, 666 (defining “us” and “we”—in Pomoland).

\textsuperscript{259} Cf. Lilla, supra note 154, at 36:

Academic postmodernism . . . borrows notions freely from the (translated) works of Derrida, Michel Foucault, Gilles Deleuze, Jean-François Lyotard, Jean Baudrillard, Julia Kristeva—and, as if that were not enough, also seeks inspiration from Walter Benjamin, Theodor Adorno, and other figures from the German Frankfurt School. Given the impossibility of imposing any logical order on ideas as dissimilar as these, postmodernism is long on attitude and short on argument. What appears to hold it together is the conviction that promoting these very different thinkers somehow contributes to a[n] . . . emancipatory end, which remains conveniently ill-defined.

\textsuperscript{260} Cf. CONRAD, supra note 20, at 40 (quoting Marlow: “I had never imagined [Kurtz] as doing, but as DISCOURSING. . . . The man presented himself as a voice.” (emphasis added); supra note 57 (contemplating the Pose of contemporary European “intellectuals”); supra note 57 (quoting Walter Benjamin: “To the critic, his colleagues are the higher authority . . . .”); supra note 56 (contemplating the possible effect, inter alia, of the above observations on the psyches of postmodern professors, whose professed Weltanschauungen may require them to TAKE THEIR “MEANING” FROM THEIR PERCEPTION IN THE EYES OF OTHERS); Arrow, Pomobabble, supra note 2, at 564 (defining “hollowness”—in Pomoland). See also ABBOTT, supra note 136, at 51 (“[O]ur priests are administrators of all Business, Art, and Science . . . doing nothing themselves, they are the causes of everything . . . that is done by others.”) (emphasis added)); DOSTOEVSKY, supra note 16, at 56 (“Administrative rapture?”); PYNCHON, supra note 35, at 592 (“Now Narrisch here’s a guidance man, a guidance man is he. And every day at Rocket Noon there’s [D]eath and revelry. . . . But Narrisch has managed, in his time, to avoid nearly all of it.”).

\textsuperscript{261} Cf. WOLIN, supra note 49, at 85 (“The consummate fusion of . . . Heidegger's thought may be found in the 1933 Rectorial Address[,] . . . a work, according to Löwith, whose interweaving of Nazi rhetoric with the language of classical philosophy was so extreme that at the end ‘the listener was in doubt as to whether he should start reading the pre-Socratics or enlist in the SA.’” (quoting Karl Löwith, The Political Implications of Heidegger’s Existentialism, New German Critique, Fall 1988, at 117, 125)).

\textsuperscript{262} Cf. DEILLO, supra note 121, at 306 (quoting a dialogue between Mink and J.A.K.) (emphasis added):

“By coming in here, you agree to a certain behavior. . . .”

“What behavior?”

“ROOM BEHAVIOR. The point of rooms is that they’re INSIDE. No one should go into a room unless he understands that. . . . This is what people in rooms have to agree on, as differentiated from lawns, meadows, fields, orchards.”

[UHHHHHH . . . A postmodern “interpretive community?”] But cf. Breakfast Theory, supra note 49 (quoting Mouse 2, responding to a critical [not "critical"] assessment from Mouse 1 about Decon-
perhaps signifying that the "radical" [nostalgic?] Left is so imaginatively exhausted and politically impotent that it may be preparing for non-empirical, group-think, talk-about-talk space travel. When it comes time to deliver the punch lines of his essay, Feldman's rhetoric fits well into that tradition:

\[\text{[M]any postmodernists, especially deconstructionists, are overtly political. Indeed, one could fairly characterize deconstruction as being primarily concerned with justice. By demonstrating the illegitimate privileging within binary oppositions, deconstructionists uncover the marginalized Other. That is, deconstructionists reveal that certain viewpoints, values, interests, individuals, and traditions are either ignored, denied, or oppressed in the name of the privileged.}\]

Well, yes... we know.

As Terry Eagleton has noted, one dying-gasp strategy of an intellectually-bankrupt Left might be to take its class struggle where it can find it. So the theory fronting the praxis (or is it the other way around?) might be to "celebrat[e]... the marginal and minority as positive in themselves," a seemingly promising view for the second or two that it takes (at least non-postmodernists) to realize that margins "currently include neo-Nazis, UFO buffs, ... those who believe in lashing adolescents until the blood runs, and everybody up to and including sundry sociopaths, serial axe-murderers, and the Taliban. (For that matter, it also includes the international bourgeoisie.)"

And for answering the Big Question, "WHO SHALL DECIDE WHAT IS GOOD AND WHAT IS EVIL?" and its attendant questions

\[\text{struction Breakfast Food Product: "Pretty dry and flavorless, isn't it? Your question is informed, or should I say misinformed, by the conventional bourgeois cereal paradigms that center on such outmoded esculatory notions as taste, nutrition and edibility."}.\]

\[\text{263. Cf. Milner S. Ball, The City of Unger, 81 NW. U. L. REV. 625, 626 (1987) ("The substance of Roberto Unger's \textit{Politics} is milk and honey processed into an unpalatable powder, freeze-dried by... the humorless demands of space travel."); Arrow, \textit{Pomobabble}, supra note 2, at 621-27 n.45 (imagining a postmodern "constitutional" journey to Mars); \textit{HEINLEIN}, supra note 21, at 297 ("On Mars there is \textit{never} anything to laugh at. All the things that are funny to us humans either cannot happen on Mars or are not permitted to happen... 'Freedom' doesn't exist on Mars; everything is planned by the Old Ones..."). See generally \textit{ALINSKY}, supra note 123, at 75 ("A sense of humor is incompatible with the complete acceptance of any dogma, any... political... prescription for salvation.").}\]

\[\text{264. Who, of course, are the only ones that Feldman thinks should count. See Feldman, supra note 14, passim.}\]

\[\text{265. And to a deconstructionist, of course, "justice" (although predictably amorphous, see supra notes 257-58), is pretty much anything at least thirty degrees to the Left of Maxine Waters, Bernie Sanders, and Barney Frank.}\]

\[\text{266. Feldman, supra note 21, at 2359 (de-emphasis added).}\]


\[\text{268. Id.}\]

\[\text{269. Id.}\]

\[\text{270. JERZY KOSINSKI, BLIND DATE, at vii (1977) (quoting Jacques Monod) (emphasis added).}\]

about what components of marginality should be celebrated and what components accommodated, tolerated, discouraged, or prohibited, we do have an institutional system that operates on the assumption that there's a difference between legislative and judicial power. While the line between the two might not be as bright as plain-meaning positivists might like, the American people are not fools, and when they come to believe that their judges (of whichever persuasion) have departed for hermeneutic la-la land, they know well how to remedy that situation either at the ballot box or through the confirmation process—no matter what Gadamer, Derrida, or Professor Stephen Feldman might think.

That being the case, what kind of magic does Feldman expect his (and most law-school pomoers') Deconpomo to work? To privilege his political preference that well, perhaps that governmental entities should do more stuff (of whatever kinds) for [to?] “Marginalized Others” (whoever “they” are), or that eve-

271. Compare, e.g., U.S. CONST. art. I (legislative power), with U.S. CONST. art. III (judicial power).

272. See, e.g., Planned Parenthood v. Casey, 505 U.S. 833, 1000 (Scalia, J., dissenting): [I]f . . . our pronunciation of constitutional law rests primarily on value judgments, then a free and intelligent people[ . . . ] know that their value judgments are quite as good as those taught in any law school[,] . . . and . . . confirmation hearings should deteriorate into question-and-answer sessions in which Senators go through a list of their constituents' most favored and most disfavored constitutional rights, and seek the nominee's commitment to support or oppose them.[;]


275. Anybody who's not a straight white Republican guy? Anybody who's not a Republican? Anybody who's not a straight white guy? Anybody who's a failure and/or unhappy and thinks it's all somebody else's fault? Anybody who's susceptible to patronization? Cf. CONRAD, supra note 20, at 34 ("[KURTZ] TELLS PEOPLE WHAT THEY WANT TO HEAR . . . HE MANIPULATES PEOPLE." (emphasis added)); Kennedy, supra note 56, at 56 (emphasis added):
rybody should tell "them" (same comment) that their subcultures (whatever "they" are, and no matter what consequences they generate—with "rich," "textured," and "nuanced" exceptions, of course) are really swell? And all that naked-preference privileging's going to get done with typeface, capital letters, mysticism, and pomobabble?

We do, of course, have public political discourse about such matters every day, and the extent to which Feldman's specific political prescriptions (if he has any) are realized in any specific
detail is determined on an ongoing basis in the political arena. Do Feldman and his co-Deconpomoers have so little confidence in their ability to defend those preferences rationally (assuming that they're stable\textsuperscript{279}) that they're afraid to even debate them without cowering playing the Wizard behind their mystically privileging pomo jargon? And if the pomoers cared about actually implementing their Lefty preferences (and not just the locus of their next law-review publication), wouldn't you think they'd heed Saul Alinsky's pragmatic admonition that "a tactic that drags on too long becomes a drag,"\textsuperscript{280} and switch to something more promising? [Comparative law, to smuggle in European Socialism?\textsuperscript{281} "International law," which also allows you to prove pretty much whatever you want with whatever you've got?\textsuperscript{282} Bruce Ackerman's crypto-postmodern constitutional "moment" "theory," where any event (or perceived event) that you like is a constitutionally-amending "moment," while any event that you don't like is not?\textsuperscript{283} Made-up "history" (sometimes

Joseph Frank, \textit{N.G. Chernyshevsky: A Russian Utopia}, 3 S. REV. 68, 76-77 (1967) (emphasis added). Of course, there might have been just a touch of a problem with that—but only in the details, of course:

\textit{Giftlessness}, as Dostoevsky feared and Nabokov knew, became the dominant style in Russia; it eventually seized power, and in the process of "making people happy" destroyed them by millions. . . . "The triumph of materialism has abolished matter," the poet Andrei Bely said . . . .

Pevear, \textit{supra} note 168, at xvi (emphasis added). [But then, what are empirical consequences compared to \textit{Passions}? That diabolic incommensurability problem, yet again?]

\textsuperscript{279} If Feldman's political preferences are, in fact, immutable (and he's not amenable, say, to open-mindedly considering adopting the Otherness of Pat Buchanan's politics), has he not ignored Gadamer's admonition that the "overlap between hermeneutics and deconstruction" compels him to "risk [his] own prejudices, to recognize 'a potentiality for being other?" Feldman, \textit{supra} note 14, at 58 (quoting Gadamer). But on the other hand, why should Feldman (or anybody else) take advice from Gadamer? Cf. \textit{GADAMER, supra} note 56, at 579 ("It would be a poor hermeneuticist who thought he could have, or had to have, the last word."). But on the third hand (and hopefully not sounding too Nietzschean), Gadamer "is dead and his intentions are irrelevant." \textit{L'HEUREUX, supra} note 3, at vii (quoting Michel Foucault).

\textsuperscript{280} \textit{ALINSKY, supra} note 123, at 128.

\textsuperscript{281} \textit{See, e.g.}, \textit{Arrow, Messianism, supra} note 14, at 168-69 \& nn.103-05 (providing the plans).


you get caught, but mostly you don't? Pseudo-empiricism (if nothing else, it's easy, since 63% of all statistics are made up on the spot?)

Or alternatively, if anybody actually cared about what happened to deserving but unusually disadvantaged persons (a category radically incongruent with the Deconpomoers' both overinclusive and underinclusive "Marginalized Other" one more than Leftist (or whatever) Visions, might it not be productive to engage in political discourse rationally—and pragmatically?

284. See, e.g., Walter V. Robinson, Professor's Past in Doubt, BOSTON GLOBE, June 18, 2001, at A1, available at, 2001 WL 3938550 (suggesting that Pulitzer Prize-winning "historian" Joseph J. Ellis may have a bit of a problem—in a number of particulars—with, well ... making stuff up); Patrick Healy & Walter V. Robinson, Professor Apologizes for Fabrications, BOSTON GLOBE, June 19, 2001, at A1, available at, 2001 WL 3938752 (lessing up to some of the particulars); Arrow, Messianism, supra note 14, at 158 n.46 (chronicling multiculturalist icon Rigoberta Menchu's rather spectacular autobiographical fraud, and law professor Patricia Williams's infamous "discrimination-at-the-Benetton-store" tale). But on the other hand, maybe this type of "history" is postmodern; how could I forget that for postmodernists, lying either can't exist or for other reasons doesn't matter? See supra notes 115-17 and accompanying text; Richard Delgado, On Telling Stories in School: A Reply to Farber and Sherry, 46 VAND. L. REV. 665, 675 (1993).


Imagine right now that someone has asked YOU the question: "Who are you?"
Perhaps the reader is a Walt Whitman, who would answer, "I am myself, unique in the universe, and I exult in my uniqueness." Most of us, however, would likely respond in words premised on the ways in which we are related to others.

See generally supra note 56 (perhaps wondering about the importance of citation count to postmodernists whose talk-about-talk hermeneutics, epistemologies, and ontologies make taking their meaning from their perception in the eyes of others a categorical imperative); id. (positing an interesting hypothetical based on the empirical possibility that postmodernists may be wholly socially constructed while the rest of us are not).

288. Jesse Jackson, Jr.? Cokie Roberts? Richard Simmons? See generally supra note 275 (contemplating the criteria for "Marginalized Otherness").

289. Remember when "pragmatism" was fallibilistic and concerned with consequences? But cf. supra note 23 (quoting Hilary Putnam describing the doublethink drivel that's now falsely marketed under the "pragmatism" brand name).
Of course not: the Passions that Possess\textsuperscript{290} "Us" might remain unsatiated that way. Instead, "We" get to play Spaceball, and dispense the mantra [it's entitled Marginalized Other, so you won't forget the name], over and over again:\textsuperscript{291}

Oh Marginalized Other,
Woe, Marginalized Other,
Won't you please just follow me?
Oh Marginalized Other,
Whoa, Marginalized Other,
I'm the "cure" for heh-gem-o-ne.

"After that it was oratory—from the balcony. . . . [O]ratory, promises, headlines. And, of course, censorship [and] suppression . . . of all who stood in [the] way."\textsuperscript{293}

"This was the end of the river, all right."\textsuperscript{294} "As all diversity is slowly transformed into a bland and motionless homogeneity,"\textsuperscript{295} "[t]he . . . postmodern listens for the voice of Being; he hears nothing but the rustling of texts turning their own pages."\textsuperscript{296} "[I]t had all been a trick . . . For all the sound and fury, those grand flights, those tootings, had all, always, at bottom, been only rebop, only the rattle of insects in the dry places of Eliot, signifying nothing."\textsuperscript{297}

"I'm leaving . . . for the unknown. Farewell to you, my unknown, dear readers, with whom I've lived so many pages. . . ."\textsuperscript{298} "And tomorrow . . . what? Nobody knows. You understand? Neither I nor anybody knows . . . Now it'll be new, never before seen, or imagined."\textsuperscript{299} "The choice is yours. . . ."\textsuperscript{300}

\textsuperscript{290} See supra note 117 (quoting Morton Horwitz and Stanley Fish).
\textsuperscript{291} Cf. Arrow, Pomobabble, supra note 2, at 572 (defining "LINEAR THINKING":—in Pomo-land: "straight backwards from the monotonic conclusions to the legal authority " (emphasis added)); supra note 4 (quoting Stephen Feldman: "Postmodernism just keeps reproducing itself: the doing of postmodernism seems to occur again and again."). See generally THOMAS SZASZ, THE MYTH OF MENTAL ILLNESS 265 (rev. ed. 1974) (emphasis added):

The common and pressing problem today is that, as social conditions undergo rapid change, men are called upon to alter their modes of living. Old games are constantly scrapped and new ones started. Most people are totally unprepared to shift . . . They learn one game or, at most, a few, and desire mainly the opportunity to live out life by playing the same game OVER AND OVER AGAIN.

\textsuperscript{292} Dennis W. Arrow, Marginalized Other, 54 VAND. L. REV. 2438 (2001).
\textsuperscript{293} GEORGE SELDES, WITNESS TO A CENTURY 400 (1987) (talking about some European guy).
\textsuperscript{294} APOCALYPSE NOW, supra note 241 (quoting Willard, contemplating Kurtz).
\textsuperscript{295} Miller, supra note 277, at 82.
\textsuperscript{296} STANLEY ROSEN, HERMENEUTICS AS POLITICS 86 (1987).
\textsuperscript{297} KEN KESSEY, THE DAY AFTER SUPERMAN DIED 43 (1980).
\textsuperscript{298} ZAMYATIN, supra note 4, at 188 (emphasis added).
\textsuperscript{299} Id. at 141.
“Now I will do nothing but listen.”  

Dancer: oh you relaying of every vanishing  
into a stride: how you performed it there!  
And the twirl at the finish, that tree made of energy,  
didn’t it fully capture the swing of the year?  
Didn’t that tree’s crown suddenly blossom with quiet  
so your whirling could swarm up around it? And over you  
wasn’t it sun, wasn’t it summer, the warmth of it,  
this immeasurable warmth, coming from you?

“That tone . . . which was the voice of mourning, is no more.  
It CHANGES ITS MEANING: it abides as a light in the night.”

300. WILSON, supra note 273, at 472.
301. WHITMAN, supra note 107, at 47.
302. Id. at 11.
303. RAINER MARIE RILKE, SONNETS TO ORPHEUS 91 (C.F. MacIntyre trans., Univ. of Cal. Press 1960) (1922); cf. CONRAD, supra note 20, at 89-90:
   It was a moment of triumph for the wilderness. . . . I remembered his abject  
pleading, his abject threats, the colossal scale of his vile desires, the . . . tem-
pestuous anguish of his soul. And later on I seemed to see his collected languid  
manner, when he said one day. . . . “I want no more than justice.” He wanted no  
more than justice—no more than justice. . . . I seemed to hear the whispered  
cry, “The horror! The horror!”

id. at 84 (“Kurtz DISCOURSED. A voice! A voice!” (emphasis and de-emphasis added));  
DUMAURIER, supra note 6, at 304 (“[A] voice, and nothing more.”).
304. MANN, supra note 30, at 491 (emphasis added); cf. ORWELL, supra note 21, at 273 (“  
‘What is it, this principle that will defeat [U]s?’ The spirit of Man.”);  
L’HEUREUX, supra note 3, at 245 (“Mistah Kurtz . . . he dead.”).