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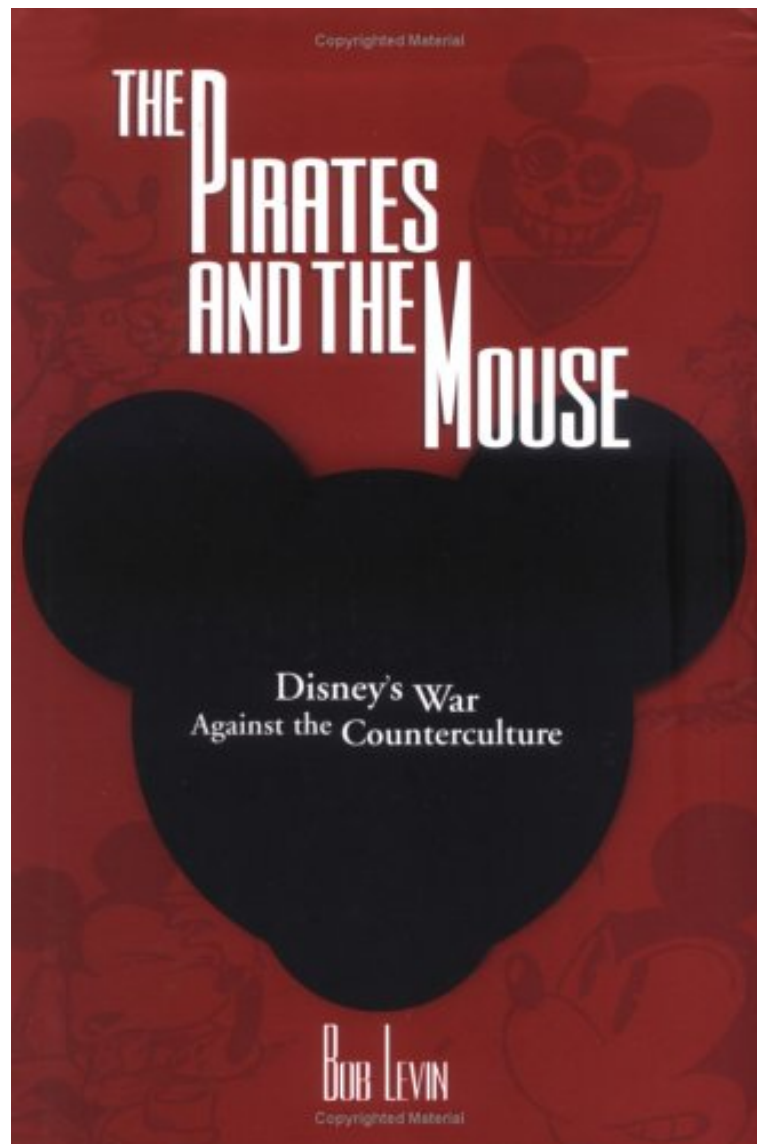
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The Pirates and the Mouse Disney's War Against the
Counterculture

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down would force them to change their interpretation." As a legal strategy, this seems less likely to have been formulated by the Hon. Arthur Goldberg than the cartoonist Rube. O'Neill wouldn't have needed to appeal if all he wanted was to defy an injunction. He could have done that in 1972. However..."O'Neill called Stewart Brand. As one of Ken Kesey's Merry Pranksters, Brand had dreamed up the Trips Festival of January 1966, which Tom Wolfe, in *The Electric Kool-Aid Acid Test*, anointed the first national convention (of acid heads]." In 1968, he had attained a less feloniously inclined celebrity with his launching of *The Whole Earth Catalog*. Since 1974, through POINT, the Sausalito-teased non-profit corporation he'd founded with its profits, he had published *The Co-Evolution Quarterly*. The nearly advertisement-free CQ drew contributions from Gregory Bateson, Paul Ehrlich, Gary Snyder, and Admiral Hyman Rickover. It had about 16,000, more-or-less alternative-living enthusiast subscribers and was devoted to explorations of the benefits of underground housing, holistic health, wood cookstoves, and the dangers of genetic mutations. O'Neill had met Brand through Paul Krassner," who had briefly been his roommate in an apartment noteworthy for the Kali-esque, eight-armed Donald Duck that roosted on its mantelpiece." Brand, an admirer of "Odd Bodkins," had taken O'Neill's cartooning course at UC Extension and joined him now and then for the release from the rigors of academia available backstage at the O'Farrell. "The girls would be doing their stuff, having fun, acting friendly," Brand recalls, "and Dan would be having an Irish-Catholic crisis, enjoying himself one moment and banging his head against the wall the next." Over the next few years, O'Neill had contributed numerous pieces to the Quarterly, some commissioned by it and some he had been unable to place elsewhere. Brand knew about the Air Pirates case; and when O'Neill -`v~ •_ ' ~ ...j .._ ._.•.j- v `r~y--ti _,-.--r._ .-~.. -~, ,• . ,_.._ ..-~....,r~M^~v^.i.. "This may be a good time to note other ornaments with which O'Neill has trimmed the tree of his account, whose apparent fragility, while enchanting, has dissuaded me from too close an inspection: 1) Disney's failure to sue him for his use of their characters in "Odd Bodkins" means he now owns thirty of them: (2) the outcome of the Air Pirates suit forced Disney to return rights to Winnie the Pooh, Bambi, Pinocchio and other characters it had misappropriated: and (3) he is consulted regularly as an expert in copyright law. In yet another bit of counterculture synchronicity, in September 1965. Brand had presented one of San Francisco's first multi-media shows. The place was the Committee Theater and the subject "America Needs Indians." " Overzealous fact-checking forces me to concede that, while technically correct - Krassner did have such a waterfowl on his mantle it was not the one he shared with Brand but that of a separate abode he maintained in Watsonville. ~. III

approached him, he put four pages in the Spring issue at his disposal in a sort- of toss-the-drowning-man-a-torpedo gesture. O'Neill says Brand's motivation was: "Here I am, forty years old, and all my friends have been sued for a mil- lion dollars. They've been in jail, and I haven't. This is my chance." Brand says, "Sure, I was aware of the injunction. That's why we did it. We always went to bat for our contributors when they were in trouble. And I'd absolutely do it again. It's always a pleasure to come to the defense of creativity being squashed unfairly and inappropriately to come down on the side of the lone creator against the machine." Seventeen drafts later, O'Neill, spinning off from what had been planned as the third installment of the Mouse story, presented the Quarterly with "Communique #1 from the M.L.F.° (Mouse Liberation Front). Brand provided a brief introduction, in which he summarized the litigation and called Disney "the General Motors of the cartoon world, immense, inescapable, admirable, despicable..." "Prodigious success..." he concluded, "draws parody. That's how a culture defends itself. Especially from institutions so large that they lose track of where they stop and the world begins so that they try to exercise their internal model of control on outside activities." "Communique" opens with Mickey and Minnie happily married and living on a small farm in Mendocino County. They explain that, after forty years in Hollywood, they had hit bottom, careers going nowhere, hooked on alcohol (him) and diet pills (her), having affairs, so jealous and embittered they had once almost put out a contract on Donald Duck. (A nod to "Mickey Rodent" again.) Their children (Mortie and Ferdie) had been so concerned they hired "these bozo artists" (the Air Pirates) to kidnap and recondition them. Dosed with psychedelics and indoctrinated through sexuality seminars, Mickey and Minnie recommitted to each other; but Disney had the Pirates arrested and prosecuted and, unable to revive the careers of their former stars, offered them "a modest retirement" if they'd leave town. Now Mickey and Minnie want to speak out. (They weren't, they say, surprised by what transpired in court. "It's taken the court over 200 years to discover Negroes are people and they're only half sure about women... so how can we expect them to understand mice.") They credit the Pirates for turning their lives around. They defend their right to parody Disney by exactly copy- ing its characters. They demand that Disney cease all legal actions against the Pirates and work with them in "a joint venture [...rebuilding Cleveland, mak- ing films, whatever]" and that the Pirates cease all "mouse-eating-snot jokes [and start] making big bucks for Disney..." "Communique #1" is delightful - and brilliant. From the double-width opening panel, a long shot of Mickey, Minnie, their house, farm and sur- rounding countryside, to the smallest detail (a Mickey Mouse cookie jar being my favorite), O'Neill's skills as a draftsman have never been more fully dis-

played.'" The mice positively glow with "innocent delight." The page pops with comic clutter when clutter is appropriate. The visuals soothe or jar, reflect or incite, depending on the text's demands. The language mingles the humorous and the instructive, the honed and the outrageous. Nowhere else, in print or conversation, does he analyze the Court of Appeal's holding as insightfully. Mickey and Minnie report that, while the court said "some" copying is permissi- ble and "too much" is not, "No one, including the court, is sure how much is `some.'" O'Neill demonstrates the absurdity' of this standard in a way that Louis Dembitz Brandeis with a Ryder van full of footnotes could not. "Is this 'some' he asks of a Minnie with an extra-fingered left mitt. "Is this `some'?" he inquires of a hairy-torsoed Mickey with a lengthy, naked, articulated tail.'" Neither pure prose nor pure pictures could have made this point so well. Only through this cuttingly- accurate, affectionate but bracing, respectful but confrontational treatment could he lay down what he had been arguing all along. While mocking Disney, he was making political points. He was tackling social issues. He was a cartoon-drawing parodist, not a pamphlet-pushing polemicist; but he demanded the same First Amendment that shielded the most astute, the most erudite, the most thoughtful among us. And by so doing, he asserted his middle-finger-extended self into the face of the most august, blackest-robed nay-sayers in the land. (I mean, three freaking tiers of the federal judiciary had already told him to bloody well behave without a dissenting vote.) O'Neill championed defiance, license, and pedal-to-the-metal liberty when, from sea-to-shining-sea, the powerful and pious were urging order, demanding decorum, struggling to reinstate a landscape of buttoned-down, buckled-up, "just Say `No'" repressiveness and denial, whose primacy a decade's unruliness had cast in doubt. On April 20, 1979, Disney petitioned to dismiss its causes of action for - .• .. _ ~ v ~J _ . ~ _ - s, . _ . _., t - ~ "' It was, one cartoonist-commentator wrote, the sharpest, funniest and most substantive Disney parody [O'Neill] had vet produced.' This may have been. in part, because the art was Gary Hallgrens with supplemental inking by Larry Todd. In 1979, Hallgren had moved to New York. He had already created the "Weird Wheels" bubblegum card series for Topps, for which he had been recruited by Art Spiegelman, its "creative consultant," and was contributing regularly to the Lampoon when O'Neill called. "He told me Disney was a signature away from collecting, and he wanted to do an in-their-face Mouse stone He wanted it drawn well and would protect me from prosecution. The scheme of a secret identity had a mischievous attraction. I didn't care if I got cred- it. I just wanted to prove to myself I could rip off Disney with style." I'' O'Neill's concern was not misplaced. Over the next few years, cartoonist-parodying cartoonists found themselves being asked, on the advice of their publishers' attorneys, to lengthen noses, short- en ears, re-cur hair, re-fashion wardrobes. But often nothing they did satisfied the concern that they still might have copied more than was necessary. The standard was too amorphous and the risk of abuse too costly. Magazines ceased parodying comic books and strips. ~Illi

trademark infringement, unfair competition, and trade disparagement. With its injunction in force and its award of damages sustained, it was content to let things conclude. The Pirates did not object. Then the Quarterly hit the stands. On May 2, Disney moved to have Judge Wollenberg hold O'Neill, Brand and POINT in contempt of court, fined \$10,000 each, and ordered to pay its attorneys' fees and costs. The next day, it asked to have the United States Attorney's office prosecute them criminally. Disney's motions were accompanied by affidavits from Craig H. Casebeer and Charles S. Paul, two junior attorneys at Cooley, Crowley, that they had purchased copies of the Quarterly three for Casebeer, one for Paul - at City Lights Books in San Francisco and the Real Food Company in Sausalito. An affidavit of Laveroni's summed up the consequences of these acquisitions. By drawing Mickey, Minnie, and other Disney characters, O'Neill had "knowingly and intentionally violated the injunction of this Court and... openly defied the dignity and authority of the Courts of the United States." "Indeed," he wrote, "[O'Neill] boasts that this latest work amounts to `contempt of the Supreme Court of the United States.' And while defendant may have misconstrued the target... he is correct that this work is contempt." He has shown "utter disdain and disregard for the judicial process... Unless strong action is taken, he will continue to defy the Court and perhaps encourage others to emulate his conduct." Brand, Laveroni went on, by helping O'Neill market his defiance while fully aware of the injunction and the appellate decisions sustaining it, had "aided, abetted and assisted" this outrage. Without this help, Laveroni said, O'Neill's transgressions "would have been extremely difficult or... more limited in scope" - as if delivery to those 16,000, solar-heated, yurt-dwelling Quarterly readers had power-boosted the impact of O'Neill's defilements - as if this previously judiciary-respecting, Disney-adoring troupe had been shaken from its tree of grace. Brand replied with a "letter" in the Quarterly. (It also ran as a half-page ad in Variety.) He called the "Communique" an "insightful," good-humored, tasteful comment upon the Supreme Court's ruling. While it might displease Disney, it did not harm it. If Disney wanted to complain, he would give it equal space. Pointing out his magazine could be bankrupted by his legal fees even if he won, Brand wrote, "Parody is a fragile right, all too susceptible to overzealous suing... [Ask yourself] [h]ow would Mickey handle a situation like this? He'd come up with some good-hearted solution no doubt." Disney ignored Brand's offer. Kennedy and McKenzie responded to "Communique" and Laveroni's broadside by petitioning the court to be discharged as attorneys for O'Neill and London. They had recently learned, they said, of a potential conflict of interest between their clients. Disputes had arisen over how to proceed with the case and, '1,II/

due to their differing roles within the Air Pirates, how responsibility for Disney's damage award should be allocated between them. In addition, while they had repeatedly asked their clients for money - and repeatedly been promised it by them - aside from \$1350 received from groups interested in the case's First Amendment issues, they had not been paid in several years and should not be required to continue financing the case from their own pockets. Disney did not oppose this motion. The reactions of those to whose rescue O'Neill had ridden were mixed. Bobby London, after separating from Flenniken, had lived in San Francisco, Washington, D.C., and Provincetown, before settling in Manhattan. With the underground behind him, his career was progressing nicely. His work had appeared in Esquire, Narbov, and on the Op-Ed page of The New York Times. In 1978, he had won his own Yellow Kid award as the best writer-cartoonist of the year. London viewed the Disney suit as an embarrassing - perhaps, virulent stain on his resume. In early 1977, he had asked Sherman S. Saiger, an attorney in New York City, to whom he had been referred by Dik ("Hagar the Horrible") Browne's son, to cut a deal for its removal. Saiger learned the terms of Hallgren's settlement from Albert Morse and called Laveroni. Laveroni did not exactly salivate with excitement. Since 1975, he pointed out, Disney had been forced to fight its case through the obtaining of summary judgment. It had battled over damages. It had warred to the portals of the Ninth Circuit. "In sum," he wrote, "we are just not interested in letting your client... simply walk away from a situation which has already cost our client a substantial amount of money." If London wanted a settlement, he must dismiss his appeal with prejudice, agree to abide by the injunction, and pay Disney \$5000. Disney, in turn, would not execute the judgment it had against him. Saiger replied that the conceptual framework to the settlement was fine, but one of its particulars appeared a deal-breaker. As a freelance artist, London did not have and could not raise \$5000. Since he had been only a "passive" participant in the recent court proceedings, not a "prime mover," would Disney accept \$250 from him? Laveroni responded that Disney was not a plaintiff with which to nickel-dime, so Saiger asked London for authority to offer a take-it or leave-it thousand or two. On March 31, he wrote Laveroni that, through "various borrowings," London had come up with \$1500. If that was not acceptable, he would file bankruptcy. Laveroni sent Saiger a formal settlement agreement, but Saiger advised London not to sign it, since it did not discharge the judgment but kept it on file for twenty years. London continued to halfheartedly pursue a settlement with Disney 2UH

but when "Communique" appeared, it assumed he was involved and broke off talks. 143 Ted Richards had returned to comics in 1976, when he co-authored two books: *Two Fools*, with Willy Murphy and Justin Green; and *Give Me Liberty*, with Gilbert Shelton, and lesser contributions from Murphy and Hallgren. *Fools* was strongly influenced by French cartoonists, who had to appeal to the multilingual European market. It relied heavily on visual gags, with long stretches of pantomime - the exception being "The Origins of the Two Fools," a tribute to Murphy, who died prior to its completion ("They'll always be two fools trying to write and draw funny stories," it poignantly concluded) - and sold much better abroad than domestically. *Liberty* was a Kurtzmanesque take on the American Revolution, replete with exploding manure wagons, dotty patriots, and debaucheries. Rich in myth-puncturing Paul Revere never made it to Concord; John Paul Jones sold captured stores back to the British - and deflating fibs Jefferson copped the phrase "created equal" from a black janitor - it portrayed a war won by blunders and luck and concluded "...[R]evolution is a vicious circle and an illusion. Nothing is going to change and we must lay down our arms." Intended as counter-programming for the Bicentennial fever sweeping the country, in quintessential UG fashion, it appeared too close to the actual celebration to attract much attention. Later that year, when his old space became available, Richards re-opened *Fast Draw*, with J.M. Leonard, a fellow southerner, and Larry Gonick, creator of *Cartoon History of the Universe*. Through *Rip Off*, Richards syndicated two strips to college and alternative newspapers: "E.Z. Wolf" (collected in the comics *E.Z. Wolf* and *F.Z. Wolf's Astral Outhouse*) and "The Forty Year Old Hippie" (collected in *The Forty Year Old Hippie* and *The Whole Forty Year Old Hippie Catalog*). "E.Z." was set near the town of Terminus, in Chitterland County. It championed the "common man" (E.Z., Slick Fox, Brer Bill Goat) and mocked the wealthy (P.J. Pigman), the corrupt (Sheriff George C. Alabama), pretentious politicians (Jimmy Otter), the New York media (Walter J. Weasel), food additives, modern art, and all manifestations of the "Spiritual Consciousness Business." "Hippie" was perhaps Richards's finest work, wide in range and deep, if dark, in vision. "I felt old," he says, when asked how it came about. "I was sober, raising a family, making a living. I saw people, like myself, who'd done all this weird stuff and now had to figure out what to do with themselves." His protagonist panhandles, deals "According to *Marks Very Large National Lampoon Site*," in 1979, London's parents had him incorporated "to protect him from the M.L.F.° Probably, the protection sought was from Disney, though, coming after the judgment was already in place, if I remember my Corporations 1, it would have done him little good. The French had shown a demand for adult comics existed in the early 1960s with the satirical newspaper *Hara-Kiri* and, later, through graphic novels like *Barbarella*. By the 1970s, a large, appreciative audience existed throughout western Europe, only a small corner of which could be knocked for its veneration of Jerry Lewis as a cinematic genius. ~, 119

dope, runs a holistic kazoo workshop. He floats between San Francisco, a pot farm in Deadboldt County, and the stomach of a whale he is trying to save. He collides with pyramid power, parquet-contaminated weed, falling sky-labs - not usually to his betterment. "I've always felt like I don't belong here," he says. "I don't see anything I recognize." "We stumble about like burned out casualties. Taunts and abuse spew forth from every street corner and rock concert." In the then-futuristic "Year 2000 Story," the Hippie's daughter, ChildPerson, abides on an Earth where anarchy rages; energy sources are depleted; murders are videotaped for entertain-ment; drugs and sex fail to cope with the void; the spirit of annihilation fills the planet. But, she offers, '[A]s long as we survive, we got a chance.'" - Shortly before "Communique" appeared, Richards newest strip, "Mellow Cat," about a "skateboard guru," debuted in Skateboarder Magazine. Its million- plus readership, primarily among nine-to-fourteen-year-olds, had led Hanna- Barbera to approach him about developing it as a Saturday morning television car- toon show. For H-B to acquire the strip, Richards needed it freed of any encum- brances - like a 5190,000 judgment. If London took "Communique" as further evidence of O'Neill's lunacy and efforts to destroy his life, Richards thought it inspired - and fortuitous. Disney had been unresponsive to the efforts of Lloyd Crenna, a commercial law specialist who worked with Stepanian, to negotiate a settlement on his behalf. Now Richards called Laveroni and arranged a meeting. Laveroni was furious about "Communique." "That sonovabitch," he said, "is going to get it." "Calm down," Richards said. "`Sixty Minutes' is pretty hot right now, and I can just see Mike Wallace dropping in to interview O'Neill with Mickey Mouse painted behind him on some cell block wall. And O'Neill loves to draw on walls." "Can you talk to him Laveroni said. "No one can influence Dan. He has his own thing going. It's artistic and intellectual, and it's revolutionary. You'll have to work out your own deal. But if this goes on, and I have to file bankruptcy, you'll have two of us out there; and I am someone who can draw the other characters.'" - "'The parallel between this conclusion and that expressed by O'Neill in Buckv and Rollos last con- versation in his The Collected L'nconscience... is noteworthy. Life will hurl its traumas at you. both cartoonists maintain. That is the nature of life. But if a person can endure - without being driven mad or pounded numb - the mere fact of this endurance is itself an affirmation. I`I was literally halhvav through printing out my final draft when Richards told me that Disney did not learn of "Communique" until he showed it to Laveroni. That so fucked this chapter's carefully constructed narrative line I decided not to mention it. (Also. Laveroni while saying he found Richards to be "an intelligent, responsible person" whose memory might outshine his own - recalls neither this meeting nor this conversation.) To partially make up for any oversight, I have promised to plug Richards's web site: tedrichards.net. (And while I'm at it: garyhallgren.com; DirryDuck.com: sharyflenniken.com: and oddbodkins.com.) 7111

IIHPI[H LV[NI[[N. BY NSW VHu 5IIHRH HflVE firuSEU Out Hi's Iflisii Dan O'Neill had no trouble finding new counsel. John Kecker, a graduate of Princeton and Yale Law School, who had served as a Marine in Vietnam, clerked for United States Supreme Court Chief Justice Earl Warren, been a Federal Public Defender, and was developing a reputation as a top-flight liti- gator in private practice in San Francisco, agreed to defend him against the contempt charge pro bona "I don't remember how I got involved," Kecker says, "but I found Dan absolutely charming and the situation suitably ridiculous; and I had a great relationship with Wollenberg." Brand and POINT retained Lawrence A. Klein, a specialist in corporate tax law with the firm of Blase, Valentine & Klein in Palo Alto, which handled their legal affairs, to represent them. Kecker's response to the contempt motion reintroduced his client to judge Wollenberg as "an indigent cartoonist against whom Walt Disney Productions has a \$190,000 judgment and whom Disney is now trying to put in jail [and have ordered to]... pay Disney's lawyers for putting him there." Klein present- ed Brand as a Stanford graduate (B.A. in Biology, 1960), a U.S. Army infantry lieutenant (1960-62), a National Book Award Winner (The Last Whole Earth Catalog, 1972), and a special consultant to Governor Jerry Brown. (The Prankster/Trips Festival portions of Brand's resume were omitted.) The two denied that their clients had violated any court order - or shown anyone contempt. Disney's suit should be dismissed, they said; and it should be ordered to reimburse O'Neill and Brand their attorneys' fees and costs for the trouble to which it had put them. Kecker and Klein pointed out that the order which the defendants stood accused of violating forbade O'Neill only from infringing upon Disney's copy- 111

rights. Under the present state of the law, as defined by the Copyright Act of 1976, however, "Communique" was not an infringement but a fair use. That statute's four-factor measuring rod had knocked the "conjure-up" test ass-over-teakettle, and applying those factors to this case left O'Neill and Brand blameless. Theirs were "different caricatures expressing different themes in dissimilar contexts fulfilling dissimilar purposes" than any drawings Disney had ever issued. The purpose of "Communique," a trenchant critique of the litigation in which the Air Pirates had been embroiled, was far different than Disney's frolicsome entertainments. The nature of the Quarterly, a non-profit publication devoted to the serious discussion of weighty matters, directed toward a limited audience of adult readers, was equally dissimilar from Disney's mass-marketed, utterly commercial juvenilia. O'Neill had not taken a substantial part of Disney's property. He had only copied one of Mickey's many pictorial representations, which had to be done exactly in order to demonstrate, through the later alteration of some of these features, the absurdity of the "more than enough" standard. O'Neill had then added original dialogue, locales, personalities, and story lines. No Disney Mouse had ever lived in Humboldt County, been angst-ridden, or espoused such bitterness at his employer or the legal system. And, most importantly, O'Neill had caused Disney no economic harm. It was "ludicrous" for Disney, which had not even asked to have the Quarterly taken off the market, to suggest otherwise. "Communique" competed with Disney, Keizer wrote - in words reminiscent of Anatole France on sleeping under bridges - "in the same way rich people compete with poor people for the right to spend the night on a bench in a public park - not at all." If O'Neill and Brand were not protected by fair use, the respondents went on, they certainly were by the First Amendment. "Communique" was a "political essay," exploring the "metaphysical distinctions" underpinning copyright law and dramatizing Disney's "draconian efforts" to muzzle O'Neill, stamp out parody, and "prevent defamation of a cartoon Mouse called Mickey." Far removed from O'Neill's earlier "bawdy 'Counterculture'" transgressions, it was "an expose of the consequences of transgressing imaginary lines constructed by Disney's lawyers..." Like any citizen, O'Neill had the right to mock Disney's prosecution of him. As a cartoonist, he had the right to use pictures to do so. Since even the most offensive expression of the most unpopular ideas deserve First Amendment protection, the Court should stand up to Disney and protect the American public's right to honest, heartfelt satire. To sanction O'Neill and Brand would frighten other publishers away from works even "remotely close to parodying Disney." Finally, even if O'Neill and Brand had done wrong, neither civil nor criminal contempt proceedings were proper remedies. The defendants had criticized a decision; they had not defied a court. Civil contempt was inappropriate because it was intended to compensate individuals financially for wrongs done them, but Disney had suffered no economic loss. It simply wished to stop O'Neill from poking fun at it, and the court should not help Disney affect a "private censorship." Criminal i' 1 i'

contempt was inappropriate because it served no public interest to punish a litigant for what may have been, at worst, disobedience of a court order rendered in the corporation sitting on these four little cartoonists." Kennedy became O'Neill's lawyer and Phillips London's. Next on board - with roots in the legal arm of the Freak-the-Fuck-Out Movement dating back to Ken Kesey's Acid Tests - was Rohan and Stepanian. Phillips thinks Kennedy brought them in to share the work and avoid any appearance of a conflict of interest. Kennedy believes they had represented Hallgren or Richards before. (Hallgren and Richards say no.) O'Neill says he knew - there weren't that many hip lawyers to choose from - and got them. In any event, Michael Stepanian became Richards's attorney. Stepanian, one of the city's top "dope" lawyers, was a thirty-one-year-old, black-curly-haired, Avery Schreiber-mustached, rugby-playing, ex-hungry waiter, ex-Enrico's host, and the Committee's first bartender, who possessed a fondness for burgundy silk bow ties and fine cigars." His associate - and former Boston University Law School classmate - the portly, Rutherford B. Hayes-bearded Albert Morse, signed on for Hallgren. Morse was a "bon vivant," drawn to black derbies and black three-piece suits, with a Robber Baron's gold watch chain strung across his equator. A photographer, a collector of exotic pipes and circus cards, he was also the defense team . . . , ' ~ ! i , ~ ; ~ ` . . - i . . . ' , , , , , , ~ . ^ i ~ " , t i : ~ " . . - • . . , _ . , Y ^ ~ . / - , . . . , - - , ~ . ~ , y ^ ' ~ . - , . . . ` - ^ . . ' ~ . . , r ` " Stepanian had previous experience defending UG art in obscenity trials. The most notable arose from the prosecution of an Erotic Art Show held within the Cannery, a collection of tourist-courting shops and restaurants near Fishermen's Wharf. It didn't bother the natives; but, he says, "People from Iowa with four kids seeing this shit went out of their fucking minds." Stepanian's strategy was to insist that the prosecution's ten-foot-tall Mylar reproductions of the most offensive work seized - Wilson's dykes chopping off pirates' cocks, for example be displayed before the jury the entire three months of trial. "Then, cross-examining the City and County's chief expert, some putz from New York, I said, `Are you saying, doctor, that a person's prolonged exposure to these pictures would inevitably result in their being led to inflict physical pain on another during sexual relations?' Absolutely.' Well, at that, juror Number Ten, a lovely woman a sixty-seven-year-old librarian - starts laughing. The judge has to say, 'Madam, please control Yourself' which gets the other jurors laughing too. They come back, after three days, ten-two for acquittal, and the case is dismissed."

toon stories - was identical. The purpose of both Disney's books and the Quarterly - despite the alleged "nobility" of the latter's intent - was to make money. The argument that the copying of a cartoon character's likeness was not a substantial taking had already been rejected by every judge who had considered the question. (The fact that O'Neill had now toned down his characters' "obscene actions and scatological speech," Laveroni said, only made them more like Disney's.) And this court had already determined that O'Neill's efforts "to cheapen and tarnish the image of Disney and of its creations" posed a threat of serious economic harm to it. Criminal contempt was a suitable response to O'Neill's and Brand's actions because of the "important public interest in having the orders and judgments of its courts obeyed." Civil contempt was appropriate, even if it did not directly reimburse Disney for economic loss, because it would coerce the defendants into refraining from further copyright violations. O'Neill knowingly violated a court order; Brand knowingly helped him; they should be sanctioned accordingly. "They can only be stopped by such... remedies, for they have demonstrated that they will not govern their actions under the rule of law," Laveroni said. "They have no respect for law, for the Court, or for the private property of others. They have only contempt." I's At the same time Disney was seeking to have O'Neill held in contempt, the Pirates were petitioning to have the damages against them reduced. On June 15, 1979, Stepanian, filing first, argued that, since no formal business relationship bound the wrong-doers together, each should be liable only for the number of infringements he authored. Richards had drawn The Big Bad Wolf, Li'l Bad Wolf, and The Three Little Pigs, who, since Disney treated them "as one persona by its choice of name," should only count as one copyrighted character. The total number of their appearances - Li'l Bad having been absent from the second issue of Funnies made him liable for only five infringements of the thirty-eight." London's new attorney, Linda E. Shostak, a graduate of Vassar and Harvard Law School employed by the prestigious San Francisco firm of Morrison & Foerster, who was representing him without charge, based her argument upon a new affidavit he had provided. It stated that, as a nineteen-(actually, I believe, twenty)-year-old inexperienced cartoonist, he had apprenticed himself to the older, more experienced ^ . L~^ ,/ .y. .~. r~ ..4 ^..~ , ~--r .'-- ., ~"- - ,v ~ -- _ ^~` ^/ ~..i^^.!~ "`At this point, with two sets of such fine intellects having looked at identical facts, applied identical law, and come up with such heartfelt, anguished-even, opposite conclusions, one could expect Judge Wollenberg to throw up his arms and weep. "Is there no correct answer to any question? Can you not even agree Tuesday follows Monday I know the adversary system is based upon the premise that two parties contesting a case as hard as they can will best lead an impartial arbiter to truth; but, sometimes, it seems truth has been lashed to the cabooses of two trains, and each engineer is heading in an opposite direction at full throttle. ""In private, counsel-to-counsel negotiations, Stepanian had also argued that each cartoonist's infringements should be evaluated individually. "Richards's werent as explosive.

-plies' weren't as outrageous. But they wouldn't look at what each artist was doing. They wouldn't look at the Wolf alone." 7,14

O'Neill. He assisted O'Neill on "Odd Bodkins" in return for room and board. O'Neill taught him to draw more professionally and instructed him to learn his craft by copying several prominent cartoonists, one of whom was Disney. In early 1971, O'Neill organized a studio to publish adult comic books. The idea and plot for Air Pirate Funnies were O'Neill's. Everything he drew or wrote was at O'Neill's direction and "like all of my projects for O'Neill, I did as I was told." When he expressed concern about copying Disney's work, O'Neill assured him their activities were protected by the First Amendment. After learning of the injunction, he had left the studio, leaving a four-page Dirty Duck story with Gary Hallgren for inclusion in what he believed would be a non-Disney comic. Over his objections and without his permission, this story was used in *The Tortoise and the Hare*. He had left California in 1972 and had been working as a freelance cartoonist since. His association with the Pirates, London concluded, "has been a severe professional setback and has tarnished my reputation as an artist/writer." '50 Shostak argued that Disney's inability to prove it had suffered any actual economic harm showed that magistrate Woodruff's imposition of the maximum statutory damage award had been intended to punish those who had deliberately published *Tortoise* while the TRO was in effect. This was improper since copyright damages are to be compensatory, not punitive. Even if a maximum award was justified, none of it should be charged to London. Because he was a youth, ignorant of the law, acting "under O'Neill's complete supervision and control," he should not be held liable for his work on Funnies. Because he had left the studio and played no part in the release of *Tortoise*, he was not a "willful or malicious" TRO-violator but an "innocent infringer," who should escape liability entirely. O'Neill was represented in this phase of the case by Richard Harris, a Stanford graduate who had spent ten months in Vietnam with the 25th Division, worked as a newspaper reporter in Humboldt County, and gone to law school at Boalt Hall.¹⁵¹ He was in his second year of practice with Hancock, 10 London says that when O'Neill read his declaration, "He went berserk, calling me up at all hours..., saying not nice things about me and trashing my reputation by painting me as some Judas." O'Neill says, "It could've happened. I mean, I was at the Chronicle trying to saw off the editor's leg with a chainsaw. I was a known berserker. And that was the worst thing about the Air Pirates. I loved Bobby. He's an immense talent. He was my first pal as a cartoonist, and he took a lot of flak and got all twisted and screwed up. People who know it say if Bobby put ten bullets in me nobody'd be surprised." ' Harris had prior experience with one of the defense's featured performers. As a reporter, he had been part of a media pack assembled by the Sheriff's Department to accompany a raid on a meth lab in the hills near Guerneville. Federal AFT agents helicoptered in first; and when the alleged crank-manufacturer had seen these heavily armed, long-haired-for-cover crazies coming, he'd bolted, and one shot him fatally in the back. The County D.A. tried to prosecute the agent for murder, but the case was removed to federal court, where charges were dropped. Stepanian had been the deceased's significant

other's attorney throughout. Zli

Rothert & Bunshoft, a San Francisco firm whose primary client was Lloyds of London, when McKenzie, whom he knew from college, asked him to take his place in a case which, as a former reporter, he might find of interest. Harris was happy to join this "pro bolo relay team." "I'd always loved O'Neill's cartoons. I thought he was a genius; and he turned out to be a fun, cooperative, pleasant guy, with a good sense of humor - just a great client" Harris moved to reduce the fine per infringement to the minimum \$250, shrinking the total damages for the thirty-eight to \$9500. He argued, as had Shostak, that the size of the award showed Voodruff intended to punish the Pirates for deliberately violating the law. But the Ninth Circuit, by replacing Wollenberg's "substantial taking" test with Berlin's "conjure-up" one, had recognized the fair use doctrine needed clarification; and if it had accepted Nimmer's "market demand" approach, the Pirates might have escaped liability entirely. With so much uncertainty about when, why and how much copying was permissible clouding men's minds and so much guidance through this fog required that even federal judges needed refocusing, O'Neill could reasonably have concluded he was doing nothing wrong. His sins may have been accidental, and he should not have been sanctioned so severely. Second, even if O'Neill had acted as willfully as John Wilkes Booth, Murph the Surf, and the Committee to Re-Elect the President combined, the sheer size of the award made it improper. It bore no reasonable relationship to any loss suffered by Disney and completely ignored what the Pirates could afford to pay. O'Neill's affidavit, documenting this last point, indicates he had taken A.J. Liebling's proposition that "A man who works for newspapers and hasn't been broke is no newspaperman" to extremes. He was already under court orders to pay \$ 100 a month support for each of his four children, and his rent alone cost him \$ 130. But in the last five years, his combined earnings as a cartoonist and UC Extension teacher had never exceeded \$4000. He got by only because a publishing company had fronted him six months' rent as an advance for a still-owed book. On June 27, the morning of the court appearance on Disney's contempt motion, the press reported resumption of "one of the goofier cases in the annals of American justice." O'Neill, visited in a "rundown East Oakland cottage," is quoted: "This hasn't been my decade.... Why can't I satirize Mickey Mouse, when I can the Flag, Apple Pie, Presidents, Christ, and the Virgin Marv About Disney, he says, "They're so big they don't even know what they're doing. They've sued everything that even looks like a mouse." The next days Chronicle announced a settlement seemed likely. The terms were rumored to include no admission of guilt by - and no jail time for - O'Neill, though the damage award would remain in place. Asked if he would continue to draw Mickey, O'Neill said, "I can't stand the damn thing. I only got involved out of a vague interest in the First Amendment. There are other people in the country who can draw mice. I won't. I hate mice. I found four of them in my kitchen last week." i' I

he got up and hit you back. By now, you should have figured out he's Irish.' I mean, the judge said that. I'm declared Irish by the Supreme Court of the United States. [Author's Note: Actually, a United States District Court.] `You got yourself a Quixote here, and you're his favorite windmill. Settle it.' And they still wouldn't." Laveroni remembers no such admonition. ("It would have been very unlike Wollenberg.") He does say, when he met with Keke and O'Neill in his office to discuss settlement, O'Neill, who continually referred to himself as "Mouse- crazed," picked a tablet off his desk and drew one on it. "`Keep it,' John [Keker] told me. `It's probably going to be worth something.'" Keke says, " It's what Judge Wollenberg should have said. I have no recol- lection, so I can't deny it was said. There are some facts too good to check." And he recalls that, during settlement discussions in the judge's chambers, Disney's lawyers insisted on a written promise from O'Neill to no longer draw Mickey Mouse. "So I said, All right' and went out to Dan; and he drew a picture of himself in a barrel, with no clothes on, saying `I won't draw Mickey Mouse.' I thought it was terrific. Wollenberg, who was a wonderful old guy, laughed and thought it was great; but Disney's lawyers went crazy, behaving like a bunch of pompous assholes. `This shows how contemptuous he's being... Blah blah..." On July 2, Keke filed a supplemental memorandum, a photostatic repro- duction from the Chronicle's editorial page of Mickey Mouse centered on a one- dollar bill "without comment... except to note Dan O'Neill did not draw it." 2IÍ

; ; 1 fll Ifllll I rß ICII lll N. They CAN T MHNr EVEAYUNE The M.L.F. now swung off the page and into the streets. The impetus for this counter-attack came from a twenty-six-year-old from Fremont, Nebraska, who had settled in the Bay Area after stops in Africa, India, and along the Arabian peninsula. Robert Beerbohm had been obsessed with comic books since childhood. "I was," he says, "a comic book John the Baptist: `Read more comics'; `Comics are a way of life'; `Comics are recyclable; they're better than TV.'" As a teenager, he rode busses hundreds of miles a day to enhance his holdings, eventually becoming one of an elite group of dealers caravanning from convention to convention to sell-buy-trade-and-amass more comics. At one of these conventions, he met Bud Plant and joined with him and John Barrett to form Comics & Comix, which had published O'Neill's Comics and Stories, Vol. II. In 1975, Beerbohm sold his interest in the partnership. But after a year of college, trying unsuccessfully to ingratiate himself to his parents, he returned to the field with a vengeance. By 1979, he owned comic book stores in Santa Rosa; on Telegraph Avenue in Berkeley; and in San Francisco, on Fisherman's Wharf, in the Mission and the Haight. After "Communique" appeared, he "had gotten word of Dan hiding out in Oakland from Disney goon squads." He tracked O'Neill down, living in an old silver trailer, so paranoid he feared Disney operatives had followed him. After they'd talked a little - and smoked a bit more - O'Neill lamented Disney had taken everything he earned. He was almost beaten. Beerbohm asked him if he'd seen Spartacus. O'Neill said he had. "They can't hang everyone," Beerbohm said.¹⁵² "O'Neill says of this account: "Beerbohm has a crappy memory." He also says he was living in a gardener's shack, not a trailer. X Ifl

The idea was to create a presence at conventions, trade shows and exhibitions, where Disney representatives might be expected to appear, that would harass or embarrass them. The media was certain to jump on the story and - to quote that old Biblical scholar Wilton Norman Chamberlain No one roots for Goliath.' Beerbohm put up 51200.'" Hallgren was enlisted to handle the art- work. ("At first," Beerbohm says, "the M.L.F. was Dan, Gary and me. That's about it.") O'Neill, drawing upon his experiences in Northern Ireland, bus- ied himself organizing support "cells" from coast to coast. By the time of the 1979 New York Comic Book Convention, July 4"' weekend,", the Gang of Three had 300 M.L.F. T-shirts for sale for 510 each. (A typical creation portrayed Mickey as the vampire "Mikula.") It had 1000 M.L.F. buttons at a dollar apiece. (One showed a Lone Ranger-masked O'Neill drawing Mickey. Another, captioned "Free Mickey." had the mask on him.) It had M.L.F. rings; M.L.F. belt buckles; an M.L.F. Flying Machine (a paper airplane adorned by Mickey, the Jolly Roger, and the M.L.F. philos- ophy: "It's a Mickey Mouse world so raise hell and don't rake no for an answer"); and M.L.F. malted milk balls ("You know it's bad for you"), called "Mouse Drops." (The wrapper pictured Mickey on the toilet and listed ingredients of "Sugar, chocolax, partially hydrogenated rodent guano, cob- webs, bat hairs, insect fragments, drano, assorted carcinogenics.") The Front also dealt art. O'Neill had contacted cartoonists, fine artists and ex-Disney employees on the West Coast, assured them the court had said anyone was entitled to parody any copyrighted character once (it had said no such thing), and asked them to donate a Mouse-centered work of their choice. Hallgren had made a similar pitch to artists in the East. (Among those he asked was London. His reply - "You must have peanut butter for brains" - suggested a continued lack of appreciation for O'Neill's efforts.) The result was several crates' of individually framed creations, including a pastel portrait of an actual mouse with Mickey Mouse cap-and-ears; a Mickey in Mona Lisa drag; Velazquez's "Juan de Parejo" in a Mickey Mouse T-shirt; a painting of a human-sized Minnie flashing two small boys; and a photograph of a masked woman, nude, with Mickey painted on her breast, her nipple his nose. These works were displayed as a "Mouse Liberation Art Show" and later shipped to conventions in Philadelphia and San Diego. (Each contributing artist received an M.L.F. Secret Agent identity card, There is also a dispute as to how much of this investment was repaid. Estimates range from all of it to not a blooming farthing. "" In Beerhohm's version of events, the Front first struck in San Diego (see belowl. All other indica- tions are it was up and running before them. 'J.'1.11

depicting Mickey, torch in hand, robed like the Statute of Liberty, and signed by O'Neill as chairman.) "We had thirty tons of art moving around the country," O'Neill says. "We had Rembrandt; we had Gilbert Stuart; we had all the dead artists doing Mickey Mouse. We sold \$15-20,000 worth of stuff off the walls. We were running comics like marijuana. We also stepped into radio. I had guys from the Committee doing Mickey and Donald voices about drugs and the Grateful Dead doing tapes: The night they drove old Disney down, All the lawyers were freaking. The night they drove old Disney down, All the mouses were squeaking. The San Diego Comic-Con, which drew 4000 fans over the Labor Day weekend, was - and is - the nation's largest. O'Neill put forth his position on close-as-possible copying on a Satire and Parody panel which included Harvey Kurtzman and Mort Walker, who were about as receptive to it as a beehive to a bear's paw. (O'Neill recalls responding to one testy exchange by accidentally knocking over a water pitcher onto a microphone "and almost electrocuting the creator of Beetle Bailey.") Another panel, ostensibly devoted to the current state of underground comics, which included Greg Irons, Denis Kitchen, and Larry Todd, evolved into a discussion of the Pirates' case and awarded the audience with the following misinformation: (1) Mickey Mouse was no longer protected by copyright but had "passed into the public domain"; (2) a federal court had "ruled in favor" of "Communique" and found O'Neill "not guilty"; and (3) fair use meant "you could get away with almost anything if you're not directly making money off somebody else's characters." At San Diego, O'Neill and Beerbohm enticed sixty other cartoonists, drawn to their flame like prankish moths, to do their own Mickey Mouse comics. The finished products took two forms. The first was a four-by-five inch booklet, M.L.F. Communique 2, which included a dozen or so "anonymouse," pen-and-ink, satiric Mickeys - a Jaws-Mickey, rising from the deep to attack a cartoonist sketching aboard a raft, a swastika-eared Mickey, an all-skull Mickey, a reefer-taking Mickey, a Mickey Mouse trap snapping down on a cartoonist's fingers." The second were "books," up to eight pages in length, by individual creators that were photocopied for further distribution. The next day, M.L.F. operatives, commanded by O'Neill, delivered a copy of each to the Disney studio in Burbank. A double-agent janitor invited them in, whereupon two dozen Disney artists hosted a small party, crowned by O'Neill smoking a joint with his feet on Walt Disney's desk. Within a week, " ;|1/•" .-'- ...r / ,N ,. -Y+•./~

the Front had shipped Disney another forty books." "The prospect of having to deal with so many infringement cases," Beerbohm says, "was something Disney did not welcome, so a solution had to be found." "The harder Disney pushed, the more people we got involved and the harder we pushed back," Hallgren says. "We had no difficulty selling the idea to other artists at all." "O'Neill basically wore 'em out," Richards told Howard Cruse. "The whole genius of his thing was that he did it again, in the face of it all. He came back out swinging when they thought they had us trapped." "Four months later, they're at the table," is how O'Neill remembers the denouement. "`Okay,' I said, `this is the deal. We have this Mouse disease that's been given us since childhood. It's in the fabric of our being. So if you tell us we can't draw Mickey Mouse, we probably will. If you tell us we can, we probably won't. So everybody shut up, say goodbye to your 5190,000, and go home. You go away. I go away. No money, no jail. It never happened.'" The actual resolution appears to have been not as simple as this Butch Cassidy approach to conflict resolution makes it seem. Negotiations dragged on through the fall. At one point, a frustrated Shostak advised London that Laveroni had said that if Disney could get O'Neill under control, it would not go after him and Richards. "The problem," she wrote, "is that the settlement has to be reduced to writing, rather than Mouse talk. O'Neill continues to talk mice." By Halloween, the attorneys had thrashed out general terms for a settlement, but last-minute haggling and language tweaking dragged things on past Thanksgiving; and the final papers were not ready until December. They provided that the Pirates would abide by the injunction Judge Wollenburg had imposed in August 1975 and neither draw for publication nor public display any Disney cartoon character. The judgment remained in place, but Disney agreed not to collect upon it so long as that first condition held. On January 18, 1980, Laveroni filed stipulations for entry of judgment against O'Neill, London and Richards for the full amount of Woodruff's recommended award nearly four years earlier: \$190,000 in damages; attorneys' fees of \$28,792.50; \$508.08 in costs. The contempt petition was dismissed with each party bearing its own costs. Judgment was formally entered February 1. No other terms of the agreement were entered into the record. They were to be kept confidential and revealed by the Pirates only to banks, financial institutions, or other prospective business partners who might balk at becoming involved with someone in hock up to his armpits. The final newspaper accounts of the case reported that `apparently secret 10 O'Neill's plan to fill the heavens above San Diego with sky-written pamphletering in his favor never got off the ground, but the San Diego Union ran a feature article that was sympathetic to his cause; and, a week or two later, a review in the L.A. Times of a recently published work on Disney began, The only book I ever drop-kicked across the room..." and was then given over to a cymbal-clapping congratulation of O'Neill and the M.L.F. Z2~

agreements" provided that the contempt charges would be dropped and Disney would not attempt to collect its damages as long as O'Neill didn't "mouse it up any more." Brand, who now says he had found the experience "amusing and depressing," was quoted lamenting the "chilling effect" of having had to spend \$11,000 defending himself. O'Neill was unavailable for comment, but Kecker said his client had become "sick" of it all and was moving onto better things.¹⁵⁷ Disney was said to be out \$2,000,000 but recognized that O'Neill had no assets from which it might collect anything anyway. Klein, looking back now, thinks the result was fine. "Given the disparity in size, my clients could have been bled dry by Disney in the costs of litigation alone, even if they had ultimately won. Besides, I truly thought Disney felt the only way to get these guys to stop was to throw them in jail." Shostak says, "My memory is, I said, 'The guy [London] was a kid'; and Laveroni let him out. All I know is, I did something good, and Bobby was happy. We met afterwards at the Elephant & Castle in Greenwich Village, and he drew me a 'Thank you' cartoon on a napkin." Stepanian remembers little about the specific give-and-take of the negotiations "I was kind of tired at that point" - but recalls his general approach. "Richards had looked ahead, and his career was going good. He said to me, 'Look, Mike, I'm making money. Mitigate damages.' I said, 'Lemme run this thing out. I don't want to fold, and we're conducting ourselves correctly. They'll get what they want, and no one will go after you for money.' I knew Tatum and Laveroni. Tatum was an elegant guy and a good litigator. Laveroni was a nice guy, a smart guy. They had their injunction, and we weren't going to do it again anyway. They knew we were straight in a way, so my approach was, 'Let's be neighbors and friends. My guy has a career. Have respect for him.'"" Tatum says, "I had very strong feelings that what had been done was fun- damentally wrong. The misuse of the Disney characters showed an element of arrogance pervasive in the culture at the time. You don't get many cases where one is so seriously engaged in a professional, intellectual, and emotional level. I received an enormous sense of satisfaction from it." "'Two years later, he told a columnist for Comics Scene, "The irony is that although Dan lost the case... the individual artist [now] is probably on safer ground when he has clear political and editori- al content in a parody. Dan's case crystalized [the] tension between the First Amendment... and [the] right to protect commercial characters... [as] a very difficult tension [to] balance, whereas before it didn't seem as though courts thought it was quite so difficult." "' Richards believes that Lloyd Crenna later negotiated a token (one dollar) settlement with Disney to release him from liability entirely. The court file contains no record of this; and Crenna, who claims no recollection, says, "If there was a settlement, it may have had a secrecy clause." Laveroni also professes to not recall any individual settlements but says the absence of any in the file is not determinative. "We may have settled the money damages, but we wouldn't give a dismissal because we wanted the injunction to remain in effect." 22,111

EIIIFIPfFA MINE LIEN: Jiii5 WA5 NH1 WEiAn fl[Despite a full-body immersion in a complete Wash-Rinse-Dry cycle of the adversarial process, my view of the litigation remained as muddied as when our hostess-to-be in Nevada City had asked me where I stood. I tend toward First Amendment absolutism. I value highly the outrageous in art. But I doubt I could muster much enthusiasm if I found characters I had created cavorting, satirically or not, between the silky sheets of a Danielle Steel novel. (And I ques- tion if O'Neill would be chuckling "Boys will be boys" over the dragooning of Fred and Hugh into the service of strips extolling the blessings afforded our polls by John Ashcroft.) While I had problems with the Ninth Circuit's "no exact copying" standard, which seemed to reward the inept parodist over the skilled one, I wasn't convinced exact copying was as critical as O'Neill said. Admittedly, I was twelve when I first encountered "Mickey Rodent," an age when my aes- thetic judgments still placed whoopee cushions within the Humor Canon; but, stubble and all, he had blown me away. I saw no reason that, if it worked satiri- cally to distort the thoughts and actions of cartoon characters, it would not work to distort them graphically. Two days' whiskers would increase the snigger- ing, not lessen it. But this was an artistic judgment, not a legal one. For that I required outside, expert help. Unfortunately, the literature was short on enlightenment. While string- cited perfunctorily or mentioned in passing in several law review articles, *Walt Disney Productions v. The Air Pirates* had been the subject of only one: a brief piece by a law student whose analysis was confined to Judge Wollenberg's initial ruling. The deepest thinkers and most prestigious journals had passed it by when it was vibrant; and, like a starlet who had once turned heads at Cannes but now can't get hit on at the Polo Lounge, all signs were that it had lost its currency. But coincident with my interest, Edward Samuels, a professor at New ~2:i

York Law School who had taught the case for twenty years, had just ferreted out O'Neill while finalizing his book, *The Illustrated Story of Copyright*, and O'Neill directed me to him as someone who could illuminate the significance of his litigation. Actually, O'Neill had told me his name was "Levine" and that he taught at New York University Law School, a different institution entirely. After the dozen realising phone calls this misdirection had necessitated, I knew I had the right fellow when, recalling their conversation, his voice took on the starry-eyed, wobble-kneed effect of someone who has stepped off the merry-go-round after a circuit at full acceleration. "I was flabbergasted," Samuels said. "He told me he had won the case. 'No, Dan,' I told him, 'you lost.' 'No,' he said, 'I won.' 'No, you lost.'" There was a pause while I imagined the professor wishing for the steadier terrain of first-year students and *The Rule in Shelly's Case*. "They set parody back twenty years." "But do you think the court's decision was correct?" I said. "It was absolutely correct," he answered. "Even today, when the pendulum has swung back in favor of parody, I don't think the result would be any different. This wasn't MAD. This wasn't Weird Al. They went far beyond the acceptable, and they would have kept going too far until they got the response they wanted. They lifted specific frames and story lines practically literally from the original books. They defamed Mickey Mouse. It was part of the culture then. People going too far. People pushing the envelope. They made damn good comics, and reading them gave you the thrill of being a co-conspirator; but did they go too far, yeah." In his book, Samuels stands firmly astride this conclusion. When comparing the Pirates' comics to the Kurtzman/Elder parody, he explicitly rules out "amount taken" as the factor to have earned the former opprobrium and the latter smiles. "Mickey Rodent," he concludes, was "fairly gentle" fun-making (Gentle? Mickey tried to kill Darnold Duck three times before caging him, stripped naked, in a zoo. Amnesty International, not to mention, PETA, would have been all over him) whose joshings could be passed over with a "Tsk-tsk," while Funnies' thuggish brutalities called for a hob-nail booted response. "In their lack of subtlety," he said, "they went too far." They went too far. The phrase, in this context, echoed peculiarly. If we were discussing sacrileges committed... If we were talking icons defiled... But the charge did not seem to naturally reverberate from the threat of potential Disney-buyers lured elsewhere. (No one even semi-seriously claimed that had happened.) It hardly seemed to rebound off the sullyng of cartoon characters' reputations. (Satire, after all, had no point except the sullyng of reputations.) And if neither of these was a true trigger - one because it didn't happen and the other because it couldn't but - why should it ruffle anyone's tweeds how much the Pirates' Mouse looked like Mickey? Five fingers or five heads, who cared if there were no consequences? 9 Z Ii

"The whole times were about `going too far,'" Menchy, the Kabbalist-librarian, said when I mentioned my puzzlement over vegi-chicken at the Chinese place on University Ave. between Krishna Copy and Ace Hardware. (He was having his with zucchini and cashews. I went for string beans and black bean sauce.) "Tell-me-why-I-I-I-you-cried...", the radio played in traditional, cheap Chinese restaurant, where-do-they-get-their-programmer-from dining accompaniment fashion, "...and why you lie-I-I-I'd-to-me." "The bastards were always telling us we were `going too far.' Sitting-in at lunch counters was going too far. Marching against the war was going too far. Smoking pot was going too far when we could have been happy knocking ourselves out chugging quarts, waking up with puke on our shoes." I shook on extra vinegar. It is the fortunate writer who has insightful friends. All right, the SLA's gunning down of Marcus Foster may have oozed to life from a garbage dump of insane, putrifying monstrosities. Granted, a speed-and-heroin diet might not fit within any AMA-sanctioned body's recommended food pyramid. But "going too far" as a standard for artistic self-regulation within a liberal democracy was about as socially useful a proposition as dousing had proved an effective means for Salem to distinguish true witches from the innocent.¹⁵⁹ Oh, "reasonableness" has its place in the law. I have no quarrel with it determining when a person's speed through a cross-walk rises to negligence or how close the other guy must stand with his crow-bar before you may fire your Glock. But in the area of creativity, to get anywhere of interest, the language-governors must be planted out there alongside "clear and present danger." For the Pirates, it had to have been the sixty-nine that slapped the ruler down. The fifty clitorises going off like Chinese firecrackers. ("It's about sex," Adele had said, when I first described Disney's lawsuit - herself echoing Dale Bumpers defending Bill Clinton on the Senate floor. "When they tell you it's not about money, it's about money. And when they tell you it's not about sex...") In the context of the cultural war that was then raging, the courts were not going to let the sans-culottes win this skirmish against this opposition. An entire weave of beliefs and assumptions about how the world was to be - born out of uncountable, over-the-back-fence uttered "Oh, my God"s; nurtured by who-can-say-how-many, country club-bar bandied "You would not believe"s; matured rigid by I-can't-even-guesstimate, boys-in-the-back-room, wise-men-at-the-council-table, implicitly understood grins and nods - weighed against them. (I also consider the fact that this engagement was being waged through comic books a factor. I don't believe the judiciary was prepared to take them seriously. Novels, films, fine art - any of that would have had a better shot.) '5' I recently caught the "going-too-far" banner being taken up on a PBS documentary by, of all moderates, Larry Flynt, bemoaning the work of young barbarians who were giving pornography a bad name. (They dismissed him as just another old white guy, trying to hang onto his Cadillac.) 221

Fair use decisions in parody cases decided after *Air Pirates* only reinforced my opinion. For instance, in *Fisher v. Dees*, the novelty song "When Sonny Sniffs Glue" was held to be an appropriate take-off on the Johnny Mathis ballad "When Sonny Gets Blue"; and in *Elsmere Music, Inc. v. National Broadcasting Company*, the court not only upheld Saturday Night Live's transformation of the jingle "I Love New York" into "I Love Sodom," it saluted this appropriation: "In today's world of often unrelieved solemnity, copyright law should be hospitable to the humors of parody." But, in *Al. CA., Inc. v. Wilson*, the doors of that suite were barred to the tunesmith who mocked the 1940 Andrews Sisters hit, "The Boogie-Woogie Bugle Boy of Company B," as "The Cunnilingus Champion of Company C"; and, in *Walt Disney Productions v. Mature Pictures Corp.*, the makers of the film *The Life and Times of the Happy Hooker* were eighty-nixed after they used the Mickey Mouse Club's theme song to accompany that memorable cinematic moment in which their heroine sexually serviced - orally, anal-ly and vaginally - three teenagers in Mouseketeer ears upon a pool table.'" In all instances, the courts spoke solemnly about substantiality and conjuring up, public confusion and market replacement (and a new bit of mumbo-jumbo, whether the infringing work was a parody of what it copied or a comment upon a social issue, which made it something else);'' but none of this turned me from the idea that all this verbiage was meant to conceal a simpler truth. Each court could have reached the same result if its test had been: Would Dick and Pat have let Julie and Tricia watch this on TV?1` "' The only case I found that contradicts my theory, the barely reported *Pillsbury v. Production*. was decided by a federal district judge in Georgia. Pillsbury had commissioned sculptured replicas of the Pillsbury characters, Poppin' and Poppie Fresh, usually seen lolling decorously on cinnamon roll cans, which it then photographically engaged in a bout of fuck-and-suck. In finding this a fair use, the court said it did not matter that it had copied the characters exactly. because this copying was intended to comment upon the values they represented and because Pillsbury had not shown it had been economically harmed. "' judge Richard A. Posner of the Seventh Circuit Court of Appeals, a leading proponent of this satire-as-target "good"; satire-as-weapon "bad" approach, concedes this to be "vague criteria" and admits there may be "a problem both in distinguishing these uses and of overlap between them." With *Air Pirate Funnies*. I submit, this "problem" would have been overpowering. "'After writing this, I chanced upon a law review article, published in 1988, by Elliott M. Abramson. Prof. Abramson held darker' judicial motives" - to wit, prudes - responsible for denying a fair use defense to a certain class of parodists. "[W]here the alleged infringing work has explicit sexual content," he wrote, "courts have found infringement. There is no legitimate ground for a court to consider sexual content in determining copyright questions, yet courts have repeatedly enjoined parodies due to their sexual content." I immediately felt less lonely on my limb - and less twisted for having clambered out there. 22H

However, my sense of duty to my readers not wanting to allow my bottom-tenth-of-my-first-year-class legal mind the last word on the subject, I sought additional counsel. Wendy J. Gordon, Professor of Law and Paul J. Liacos Scholar at Boston University Law School, had been as one of the most prolific and most interesting - writers on copyright I had come across. (She also turned out to be an admirer of O'Neill's. "I hope you're a fan," she'd said when I stated the reason for my call.) "The decision was not incorrect," she cautiously tread, "if you take the perspective of Justice Holmes's 'bad man,' for whom the law is what you can predict will happen.'61 I think you could have foreseen the result the court came to in *Air Pirates*, so from that vantage point the opinion is a legitimate interpretation of fair use. However, I would prefer a more generous interpretation of the doctrine." "Why is that?" I encouraged. "There are imaginative works which artists create that become facts in other people's lives, affecting how they think and feel. It could be *White Christmas*, the *Mona Lisa*, the *Vietnam War Memorial*. I would allow other artists greater latitude to reproduce these works, as long as they are doing it for a different purpose than for which they'd originally been intended, and if the second artist needed the reproduction to make the point he was intending. O'Neill was using Disney's characters to comment upon Disney's effect on him - and everyone in our generation and that was the only way he could talk about him. A treatise wouldn't have been nearly as effective in loosening Disney's hold on the public imagination." "Which gains a society what?" "There is a fundamental importance to guaranteeing people a freedom to discuss the features of the world around them and to re-conceive the dominant images of their time. I take a Lockean view of property, which calls for an equality of starting points. No creator should be shut out from addressing significant aspects of his world simply because some earlier creator has been there first. The public's right to free speech trumps Disney's right to its intellectual property." When I hung up, I felt a window had sprung open. The air pricked up my ears and elevated my eyes. My study fronts upon a back yard that appears the recipient of a *Back to Wilderness* grant. Through snags of blackberry vines and ivy, a gray cat stalked a cabbage moth. I had sat at my desk, seeking revelation, while it - as unconscious of me as the moth the cat - had flitted just ahead, just as unretrievable, out of reach, to the left, the right. w V,,,/...` r~....-.^ ..^...~_ - ~^.-^~--- --- •,, ~ . ~--- ., .. .r-~-~.~ "'As I understand it, Holmes believed laws should be interpreted to mean what a reasonably-minded "bad man" would think they meant, so if he got whacked for violating them he could not claim he hadn't been warned. J'J,4

In the flats, a siren receded. Closer by, a jay called. Now, I felt the lift of the serendipitously gifted. I had, I thought, the last words for the page. It was only a matter of ordering them. I had, I realized, been honored by having so many fine voices speak to me. I had been privileged to wrap myself around and extend myself through what they had said - subjects and witnesses, experts and friends. Writing is a gift to the writer as well as to his audience if it is to be a gift at all. Above my desk, at eye-level, is a framed flyer from E.C., soliciting subscribers. The flyer, autographed by Kurtzman, Elder, Gaines, some others, has been with me since 1955, when Dave Peters, Max Garden and I made pilgrimage to their headquarters in New York. Even then, I did not welcome others telling me what should be read or written. So much of who we are depends on who we were. All we believe; all we hope for; all our disappointments; all that leaves us feeling blessed. It shapes what we write - the subjects we summon, the words we choose, the rhythms we adapt - lawyers and parodists, judges and comic journalists. 2 21]

CIIPAPTEA IWfNIY: 100 Huí:11 FuN In 1964, when Dan O'Neill still stood in good stead at the Chronicle and Walt Disney was scaling new heights of popularity and acclaim with the release of Mary Poppins, Roy Orbison and William Dees wrote "Oh, Pretty Woman." The song, performed by Orbison, sold 7,000,000 copies. Thirty years later, having re-centered in public awareness through the Richard Gere-Julia Roberts film Pretty Woman, '64 it would cause the United States Supreme Court, in the case of Campbell a Acuff Rose Music, Inc., to finally address the arguments the Air Pirates had raised. Orbison and Dees had assigned their rights to "Oh, Pretty Woman" to Acuff-Rose, a leading country-and-western music publisher. In February 1989, the manager of the rap group 2 Live Crew (Luther Campbell, Christopher Wongwon, Mark Ross, and David Hobbs) informed Acuff-Rose that her clients had written a parody of the song which they intended to use on their next album. She offered to pay for this use; but Acuff-Rose, aware of 2 Live Crew's not-too-Nashville reputation - its previous effort, As Nasty As They Wanna Be, had resulted in several obscenity convictions - refused. 2 Live Crew included the parody "Pretty Woman" on its new release, As Clean As They Come, cheek-by-jowl with the tracks "Me So Horny" and "My Seven Bizzos" anyway. While its version originated verses about "big, hairy," "bald-headed," and "two-timin'" women, it copied the Orbison-Dees first line and well-known bass hook almost exactly. ~^ r" -,r.- .,`-n,, , ^,~•ti.^ ~ . ~ -.-.r~~s, ~~- ~ ~. /"•_.-" .. "The film was released by Disney, which had purchased the script from a failed production company in Connecticut. Originally a bleak tale of the relationship between a desperate hooker and a ruthless businessman that climaxed around a drug overdose, it became, sweetened with champagne, bubble baths, Rodeo Drive, and redemptive love, the studio's highest grossing film. 231

Clean sold 250,000 copies, and Acuff-Rose sued Campbell et al. for copyright infringement. The District Court granted 2 Live Crew's motion for summary judgment and dismissed Acuff-Rose's suit; but the Sixth Circuit Court of Appeals reversed, saying any infringement for commercial purposes was presumptively unfair and that, by taking "the heart of the original," 2 Live Crew had taken too much. The entire United States Supreme Court, with justice Kennedy writing a separate concurring opinion, disagreed." The Court's majority opinion, by justice Souter, reached its conclusion through a step-by-step analysis of the four factors of fair use set forth in the Copyright Act of 1976. First, it said, the crucial question about the infringing work's "purpose and character" was not whether it was commercial or non-commercial, but whether it copied the original in order to "supersede" it in the market place or to "transform" it into something new. When the infringing work was a parody, this question became did the copying cast new "light" upon the original, enabling the public to view it in a new way, or was it a mere attempt to grab attention but "avoid the drudgery of working up something fresh." (If this fresh, critical slant was present, the Court went on to say, quoting Justice Holmes's recognition that what seems "repulsive" on first viewing often later comes to be viewed as "genius," its good or bad taste is irrelevant.)" Since a parody would almost always be of something well-known, the Court felt the second factor, "the nature of the copyrighted work," would never help much in deciding when a parody was a fair use. While the third factor, "the amount and substantiality" of the copied material was significant, this significance had to be seen in the context of the other factors. Viewed in this light, even the original's "heart" could be copied, so long as the parody did not become "a market substitute" for it. And discussing factor four, "economic harm," the Court made clear that it did not matter if the parody depressed the sales of the original. Even a "lethal" parody that "kills demand" entirely, may be a fair use. "Displacement" could be prohibited; "disparagement" could not. It then remanded the case to the trial court to determine what damages, if any, Acuff-Rose had suffered. In thirty pages, the Supreme Court mentioned Ault Disney Productions v. The Air Pirates only once, then in passing, and, I believe, unfairly, when Kennedy, whose analysis seemed unimpeded by an actual reading of their comics, dismissed the Pirates as "profiteers who [did] no more than... place the characters from a familiar work in novel or eccentric poses." Still, it seems to me, the Court effectively eviscerated the Disney arguments that had swayed Judge Wollenberg and the Ninth Circuit. After Acuff-Rose, it no longer seemed "The defendants appeal was also noteworthy for its supporters. For the first time in its history, The Harrard Lampoon filed an amicus brief. "'Holiness is even a better name to drop than Learned Hands. 2:12

to matter that the Pirates had plucked our Mickey's "heart" (his physical representation). It no longer seemed relevant that they had shredded his aura of "innocent delight." Market displacement, Nimmer wrote, had become the most important, and, indeed, central fair use factor." If Air Pirates Funnies did not "satisfy the same purpose" as Walt Disney's Comics and Storiesl '- - and how, in God's name, could you conclude it did it was a fair use.'" Judge Wollenberg died April 19, 1981. Michael Kennedy returned to New York City, where his clients have included lean Harris, the Scarsdale Diet Doctor murderess; Whitewater's Susan McDougal; Ivana Trump in her divorce from The Donald; and Bill Johnston, the Waco prosecutor who exposed the FBI-Justice Department cover-up of the use of pyrotechnic devices against the Branch Davidians. Their misadventures have brought him an office on Park Avenue, a beach house in the Hamptons, and a cottage in Ireland. Michael Stepanian remains in San Francisco. His present practice is "one-third federal panel appointments - at \$75 an hour - of giant, fucking problems: guys who fire their p.d. and scream at judges; guys the marshals hate. One-third fancy guys in lots of trouble: tax; white collar maniacs; great huge frauds. One-third the new generation of kids in trouble: rock'n'rollers; fancy kids; doctors' sons. Anyone who gets in trouble up here, and any Dream Team doesn't want, I'll come off the bench for." Albert Morse drifted from the law, publishing, in 1977, The Tattooists, a compilation of photographs he had taken and interviews he had conducted. The website Disquieting Muses says he lives on a "decrepit houseboat in northern ~, . . . ^~^~...`s~., .>., ~, ~~, . . . ^~. . . . ~`ty, ^-'. . . ~ r~. . . . ^ _ " vJ-.r~.w~. . . . ~. . . . Y. . . . , _ . . . y , , ^_r.«.~ 't' Judge Posner has suggested "that erotic parodies fill a part of the demand for the parodied work itself and thus reduce the copyright holder's revenues on sales of the original work... [to] that segment of the population that likes its entertainment spread with sex." I have tried to be scrupulously honest in scouring my own memories; but, I must conclude, I would not have purchased any additional copies of Uncle Scrooge if he had been portrayed as less successfully sublimating his primal urges. As I recollect, during those years I was busy consuming Disney, I was squirming in my seat at Saturday matinees through all interludes of "mushy stuff," eagerly awaiting the shooting to resume. So I think the Pirates skate under even his analysis. ias My optimism should be tempered. When I asked Professor Gordon if she too thought the Air Pirates likely to prevail today, she replied, "On general principles I would agree with you, except that I think that most courts are too sexually ill at ease to give Air Pirates fair use." And Acuff-Rose leaves sufficient room to believe this skepticism apt. The Court stated it was not laying down "bright-line rules" and that future decisions should be made on a case-by-case basis. Its nothing-if-nor-vague "light-caster" vs. "drudge-avoider" test for judging "transformative" works, coupled with Kennedy's less-than-sensitive take on Funnies, shows that it left about as much room for judicial bias and subjectivity to come into play as there is for centerfielders to snag fly balls in

Yankee Stadium. As Nimmer also wrote, parodists "should continue to pay their insurance premiums." i?:l;i

California, inundated with obscure bibelots and bizarre objects," pursuing his art. He has, says an old friend, "stepped away from this world." David Phillips spent nearly two decades working as a cab driver, typist and librarian, before resuming his practice as a specialist in legal research and writing. John Keker's abilities were recognized nationwide when he was selected to prosecute Oliver North for his role in the Iran-Contra scandal. He has defended Eldridge Cleaver, Werner Erhard, anti-nuke demonstrators, money launderers, George Lucas (against a charge of stealing the idea for *The Empire Strikes Back*), and Andrew Fastow, the alleged "mastermind" behind Enron. California criminal defense attorneys recently named him the lawyer most would want if facing serious charges. George Gilmour practices commercial litigation out of his home. He spends half the year in Ireland, where he teaches comparative constitutional law. Kirk McKenzie is an administrative law judge with the California Public Utilities Commission. Linda Shostak remains at Morrison & Foerster. Richard Harris is with the firm of Erskine & Tully. Lawrence Klein is a partner with Ritchie, Fisher & Klein in Palo Alto. His son is a partner with the Cooley firm, now Cooley Godward, which, with nearly 450 lawyers, has become California's fifth largest. Sandy Tatum and John Laveroni remain at Cooley as "retired partners." Tatum has represented the University of San Francisco, the Raychem Corporation, Security Pacific Bank, Bankers' Trust, and the United States Golf Association. He has been president of the San Francisco Legal Aid Society, a trustee of Stanford University, and a member of the Mayor's Fiscal Advisory Commission. He has served on the boards of directors of the Youth Law Center, the United Bay Area Crusade, St. Elizabeth's Infant Hospital, and the San Francisco Mental Health Association. At eighty-one, he is working to raise San Francisco's municipal Harding Park Golf Course to PGA tournament level and recently authored the autobiographical *A Love Affair with the Game*. Laveroni has practiced antitrust, copyright, construction, criminal and trade securities law. He served as an attorney for the Oakland Athletics in contract disputes and the Rand Corporation in the Pentagon Papers case. He litigated claims before the United States-Iran tribunals and the family law courts of Norway. But the career highlight featured above all others in his biography at the Cooley web site is his role as "lead counsel in the case of *Walt Disney Productions v. The Air Pirates*, the seminal case in establishing copyright protection for cartoon characters." Stewart Brand founded The Well (Whole Earth Electronic List), became managing director of the Global Business Network, and was on the board of directors of the Electronic Frontier Foundation. He currently leads the All Species Now Foundation's quest to compile a list of every variety of living crea-

231

Lure on Earth. He is also a recipient of the San Francisco Media Alliance's Golden Gadfly Lifetime Achievement Award. Paul Krassner writes regularly for High Times and Playboy and performs stand-up comedy. His most recent book is Murder at the Conspiracy Convention. His most recent CD is "Irony Lives! Bud Plant operates a mail order business out of Grass Valley, California, selling comics, illustrated books, and related objets d'art. Robert Beerbohm, after losing most of his stock of comics to a flood, returned to Nebraska. He is writing a history of comic books, tentatively titled Comics Archaeology, which will correct many commonly held misconceptions, including several you have read here. Gary Hallgren, "still and forever" a freelance commercial illustrator, lives on Long Island. He has been married to his second wife, Michelle, for twenty-five years; they have a sixteen-year-old daughter. His work has appeared in The New York Times, Wall Street Journal, Forbes, MAD, and Swank, for whom he created the monthly, picaresque "Mustang Sally" two-pager. He has drawn greeting cards for Disney, and his "Bad Girls Ride Bad Bikes" logo adorns T-shirts, coffee mugs, and mouse pads; but he has not contributed to a comic book for twenty years. The UGs, he says, "were one of those things that never fulfilled their potential." Ted Richards left comic books in 1981 to edit the magazine by which Atari instructed customers how to use its products. He went on to become its creative manager and work for several other Internet companies in a similar capacity. In 1996, he was named vice president and creative director for Audio Highway, developing products and promotional formats for clients that included Sony Music, Dreamworks, and Simon & Schuster. Most recently, he has been creative director for DNA Sciences, directing marketing and recruitment for the Gene Trust. He is remarried, has a teenage son, and lives in the Silicon Valley. Bobby London continued to draw on a freelance basis for "slick" magazines and newspapers. Between 1984 and 1986, he worked for the Disney merchandising division in New York City. From 1986 until 1992, he drew the daily "Popeye" comic strip for King Features. (His stint ended after he took on the Right-to-Life movement by suggesting Olive Oyl had aborted an unwanted pregnancy.) He also helped design the Sonic the Hedgehog video games. He now contributes "Dirty Duck" to Playboy and "Cody," a family strip, to Nickelodeon Magazine. He lives in Los Angeles. Shary Flenniken contributed to The National Lampoon until 1990; she also served as a freelance editor. Her work has appeared in MAD, Premiere, American

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"69The disc, a work of" investigative satire" was to have contained an introduction by Dan ("Homer Simpson") Castellaneta; but Fox TV, which claimed ownership of Homer's voice, refused to allow Castellaneta to speak in it. J:1:1

Lawyer, and Playgirl. She contributed to the script of National Lampoon Goes to the Movies and wrote Silicon Valley Guy, an unproduced film for Disney. She has done advertisements for Burger King and Toys `R' Us. She authored the books Seattle Laughs, Sexe and Amour, and Diving into the Subconscious and illustrated Nice Guys Sleep Alone, When a Man Loves a Walnut, and stories in The Big Book of Mar•tyrs. She lives in Seattle. Mickey Mouse has starred in only two motion pictures in the last fifty years. In the 1990 release The Prince and the Pauper, he all but made the view- ing audience forget Freddy Bartholemew: but his sole subsequent booking, The Runaway Brain, saw him reduced to having his brain switched with that of a Frankenstein monster and turned "into a ragged, fanged, menacing wildmouse" - a startlingly O'Neillian vision. (It also - see below - sounds suspiciously like someone was playing subversively with a metaphor for what happened with corporate Disney.) He remains, however, emblazoned as the sole spokescharacter on the stationery upon which the company tells inquiring authors that it receives too many requests to cooperate with books they have in progress.' The Air Pirates comics sell for seventy-five times their original cost. Pages of the original artwork go for four figures. Two of these pages - one each by O'Neill and London - were displayed at San Francisco's Cartoon Art Museum's 2002 show: "ZAP, CRASH AND BURN: Underground Co nix and the Bay Area." The consequences of direct sales on the comic book industry proved pro- found. Comic book stores, of which there are now 2000 in this country, have become the primary way comics are sold. Because these stores were unable to return unsold books, they fostered the development of a "collectors market," in which old comics were valued according to such factors as condition, artists, characters introduced, and fetishes catered to, and were treated as investments, rather than mere entertainment or, God forbid, art. Publishers capitalized on this trend by emphasizing the release of "hot" books, featuring the most popular characters drawn by the most popular artists - often with multiple covers (col- lectors would need one of each) or "pre-bagged" to preserve their full, pristine- condition worth (which meant you had to buy a second copy if you also wanted to read the damn thing) - rather than finding ways to attract a wider, more diverse audience. Coming at a time when comics had dropped from public view on newsstands and magazine racks, this further served to marginalize them from the rest of society. Disney remains protective of Micek's image. Before it permitted MaaY's to erect its "Mickey's Night Before Christmas" show windows display, Macys had to agree not to depict him and Minnie sharing the same bedroom. D6

While this marketing shift took place, the Comics Code Authority maintained its thumbs-to-windpipe grip on the industry." Its most recent revision, in 1989, reaffirmed a commitment to "decent and wholesome comic books for children." It mandated the favorable portrayal of governmental bodies; law enforcement agencies; the military; religious, ethnic and social groups; "the economically disadvantaged"; as well as "the economically privileged." It tolerated appropriate and non-excessive violence and substance abuse (including smoking and chewing tobacco), as long as it was not glamorized. Clothing had to conform to "contemporary styles and fashions," and the depiction of graphic sex and "primary human sexual characteristics" was forbidden. For the most part, mainstream publishers were content to operate within these strictures. While comic book sales dwindled to roughly a quarter of what they once were, the two largest companies, Marvel and DC, still submitted ninety-five percent of their titles for approval." Most of these books recycled tales of bizarrely over-muscled men and equally overly-endowed women engaging grotesquely mutated monsters in never-resolving combat. These battles raged for so long and scorched the earth so severely, they seem to have made it impossible for alternative narratives to take root. The result has been that comic books have become almost entirely a land where only teenage boys of limited imagination and hobbled social skills feel at home.'` At present, comics are less important to their publishers for the dimes they generate directly than the dollars their characters attract from elsewhere. Spin-off merchandise and television licensings keep the presses rolling; and, every few years, Hollywood backs up and unloads the Brinks trucks for Batman, for the X-Men, for Spawn and Blade and Spider-Man and the Hulk - so there is little urgency to rock any dinghies. The UG scene has also withered. Rip Off weathered the '70s with an infusion of money for the film rights to Shelton's Fabulous Furry Freak Brothers, but the body-blows the Reagan era struck against permissiveness took their toll. After much of its inventory was destroyed by the explosion of an illegal fire- Knowledgeable sources say I overstate the Codes force. In recent years, they point out, direct market books have generally ignored it with no one giving a rip. '- In early 2002, Marvel announced it was discontinuing this practice. 13 Matthew Pustz, in *Comic Book Culture*, argues that mainstream comics are not as devoid of content as they might appear. Frequently, he says, they are rich in "specialized knowledge," allusions and references to not only the entire, often decades-long run of the comic in which they appear, but all of comic book history. Unfortunately, this makes it "almost impossible" for a new reader to pick up some comics and understand them. Publishers have resorted to red-flagging issues where the current is not too swift or debris-clogged for a novice to enter safely or summarizing entire sagas or character case histories inside each volume. 'J. ;i /

works factory in the building it shared, Rip Off relocated to the wilds of Placer County; and Fred Todd, its chief operating officer, enrolled in junior college to study computer science. He keeps his company's most popular titles in print but, on average, does not issue one new book a year. Don Donahue moved what was left of Apex Novelties into his living space in a south Berkeley warehouse. His walls are lined with storage boxes full of underground work from which he satisfies mail orders; but his schedule of new releases makes Rip Off look like Bertelsman AG. The cartoonists Joel Beck, Roger Brand, and Jim Osborne were killed by alcohol and Rory Hayes by speed. Rick Griffin died in a motorcycle accident and Greg Irons was hit by a bus.' 4 Robert Crumb and Gilbert Shelton moved to France. Justin Green became a sign painter. Bill Griffith syndicated "Zippy." Willie Mendes dedicated her art to Orthodox Judaism. Trina Robbins diverted her feminist courings first into Barbie and Wonder Woman and then a ground-breaking series of books on the history of women in comics. Robert Williams built a waiting list for five-figure, original oils of his eyeballs and bathing beauties. And S. Clay Wilson has illustrated - albeit in his own, impeccably tasteless fashion - Hans Christian Andersen and the Brothers Grimm. Only Ron Turner, his ponytail and beard greyer but still streaming, thrives at the old stand. Last Gasp publishes new comics, old comics, biker books, tattoo and piercing mags. Though his sales are only a fraction of his salad days, he remains proud of the movement of which he was a part. "Everywhere you look graphically today, you see vestiges of underground cartoons," he says. "Young cartoonists read them like a good Muslim reads the Koran. Art students absorb their visuals before they create their art. Modern advertising directly links to them. Sex, drugs, violence - they opened up all of that." And while no second generation of cartoonists sprang up immediately to succeed the UG, the security of having books pre-sold encouraged small, independent companies, who could ignore the code, accept edgier, more experimental, more adult work, and survive on sales of 5-10,000 per issue to enter the field. By the 1980s, a nouvelle vague of artists that would come to include Chester Brown, Dan Clowes, Julie Doucet, Phoebe Gloeckner, Roberta Gregory, the Hernandez brothers, Joe Sacco, Seth, Dave Sim, Chris Ware, and Jim "t!`" ..n , , . . ~ 1 . ~ ~ r . - ~ ^ " ~ ~ r ~ . ~ . . ~ _ _ ~ ~ ~ r t i . ^ ~ ~ . _ - . . . ~ _ ~ . . . - _ . • ^ ` . . . ~ _ ~ , y ^ ~ , . . "In 1998, Malcolm Vhyte published The Underground Comix Family Album, a collection of photographs taken during the UG's prime. Of the forty-three men pictured there were also seven women - I counted eleven who were deceased. Assuming their ages to have been twenty-five to thirty when photographed, a normal life expectancy would have had each of them reach seventy-Five. They didn't make sixty. Folks exposed to Agent Orange had a better survival rate. ' In Political Fictions, analyzing the failed Clinton impeachment, Joan Didion credits the American public's recently evolved "non-judgmentalism... in the sexual realm" with immunizing it to the frothings of the rabid Republican right and saving the presidency. Hell, the UGs may have helped alter history. Z:iB

Woodring, who had absorbed the lesson of the UGs that comic books were suitable vehicles for the expression of any form of individual vision, had emerged eager to fill their lists. In books that were autobiographical and fantastic, historical and erotic, magical and political, realistic and surreal, they expanded the comic page far beyond the turf staked out by their predecessors. Their concerns are broader, their viewpoints wider, their approaches more original. There is, simply put, better work being done in comic books today than at any time in the past. The decline of Walt Disney Productions continued into the 1980s. The Black Hole flopped. Tron flopped. The Last Flight of Noah's Ark, The Cat From Outer Space, The Fox and the Hound flopped. Its production facilities were out-moded and its distribution system poor. (The rumor is not true, however, that Disney ever reached the point that it was swapping film prints for Volkswagens - full of incense.) It trailed all major studios in box office receipts. Its effort to engage contemporary sensibilities by creating a separate division, Touchstone Pictures, to make more adult movies was delayed by internal debate about whether Darryl Hannah, the mermaid in its maiden effort, Splash, could be bare-breasted. (The verdict was "No." Her hair was taped across her nipples.) It remained, one critic wrote, enmeshed in the Reaganite "focus on the family and the moral values that, for the far right, defined it." Disney's theme parks continued ~ ~ ~ ~ , `...-- ., ,,,~` ,...~^~~, J . x..T .. . ~ _ _' A successful mainstream comic book today has a circulation of about 100,000, ninety percent of which is to boys between the ages of ten and twenty. A successful alternative comic will sell a tenth of that to a readership that is sixty-percent male and generally college age or older. [Ed. Note: these figures of Levin's, like most pertaining to comic books, are highly debatable.] Gladstone Comics picked up the rights to Disney's comics in 1986. Although Gladstone achieved circulations in the high five to low six figures, Disney ended the license in 1990, convinced that it could better these numbers by taking over the publishing itself. In 1993, confronted with shrinking sales, Disney returned the license to Gladstone, who published them until 1998 when sales of fewer than 10,000 forced them to give it up. J:i!I

(metaphors are not my strong point), and I will nail this - Disney made Michael Eisner chairman of its board of directors. Eisner came from Paramount Pictures, where he had been president and chief operating officer. During his tenure, through films like Raiders of the Lost Ark, Saturday Night Fever, and Terms of Endearment-nothing too eccentric, nothing too remote or, even, too intelligent but nothing that was That Darned Cat either - Paramount had quadrupled its profits and become the highest grossing studio in Hollywood. (Before that, Eisner had been a senior vice president at ABC, which, leaning on the even more brain-dead Laverne and Shirley and Starsky and Hutch, had been the country's top-rated television network. His most noted contribution was to insist upon a beefed-up role for the Fonz in Happy Days.) The Eisner Era-- brought Disney success beyond anything its founder or Horatio Alger or, for that matter, few consciousnesses this side of Alexander the Great might have contemplated. Eisner returned Disney to network television with a Saturday morning children's show based on a popular candy, Gummi Bears. (The concept was Eisner's, and, boy, Bill Moyers must have kicked himself for missing that one.) He hired George Lucas to develop Star Wars-related theme park rides - and then raised admission price by five dollars the first of nine price hikes before the decade's end. (Lucas's plan to provide the additional kick of having the drivers appear to be deranged androids did not make the final cut.) He signed Michael Jackson, at a time he was still better known for Thriller than the chapter devoted to him in Psychopathia Sexualis, for the 3-D movie Captain EO - but censored his trademark crotch-grab dance move. (The film's cost, 517,000,000, made it, per minute, the most expensive of all time.) He opened Tokyo and Euro-Disnevlands. (Adapting its dress code to deflect current grooming trends, Disney has denied all park employees shaved heads or spiked or oddly colored hair and limited body piercings to one small stud per ear for women.) He revitalized the Disney Channel. He packaged old television shows profitably with new ones for syndication. He saturated the video market so thoroughly that, at one point, Disney had eighteen of the top twenty best-selling children's videos. He advertised at unheard-of-for-Disney levels. The first film script he approved, Down and Out in Beverly Hills, resulted in Disney's first R-rating (for one profanity); but it also earned \$57,000,000. Fourteen of his first fifteen films were profitable; and with Aladdin, Beauty and the Beast, Ernest Goes to Camp, The Little Mermaid, and Three Men and a Cradle, he made Disney the first studio to gross over 51,000,000,000. (One of Eisner's first moves to make Disney profitable had "These achievements were also the work of Frank Wells. Disney's president/CEO, who arrived the same time as Eisner, and Jeffrey Katzenberg, who became head of production of the motion picture division shortly thereafter. (A fellow named Robert Levin took charge of film marketing. From the sound of his name alone, I am sure he deserves some credit for juicing up the old buggy.) Wells died in a helicopter crash in 1994, and Katzenberg left to join DreamWorks. When Disney failed to pay him bonuses to which he felt entitled, he sued, receiving a settlement of 52,000,000 on the eve of trial. DII

been to lay off 1000 employees. Later, when executives were pocketing lavish bonuses, workers had their health care deductibles doubled.) When I last looked, Disney's annual revenues exceeded \$20,000,000,000, and it had 120,000 employees. It owned Miramax and Merchant-Ivory. It owned ABC, ESPN, the History Channel, Lifetime, A&E. It owned newspapers, television and radio stations, publishing and record companies. It owned cruise ships, residential communities, luxury hotels, vacation clubs, golf courses, a sports complex, a convention center, the Queen Mary (when the captain refused to abide by Disney's "No Facial Hair" policy and shave off his traditional British naval commander's mustache, he was fired), the Spruce Goose, a fast food chain (Mickey's Kitchen), an Indy racetrack, the Anaheim Angels, the Mighty Ducks, and 650 Disney stores in eleven countries, including a monster that helped chase the goblins from Times Square. This expansion did not come without some bruised feelings. The same literature that credits Disney with being "the most trusted brand name in the history of marketing" notes its reputation for being "cheap," "arrogant," "manipulative," "demanding," and "stifling" of individual creativity. It may be toasted as an "entertainment conglomerate of unparalleled size and breadth," but it remains "puritanical," and a master player of hard-nosed corporate "hardball." While "almost synonymous with the very notion of American culture," Disney is a company "with little respect for free speech and public criticism." Disney's policies, not to mention its deep pockets, have kept its legal and public relations departments fully employed. It has been in litigation with almost every other major company in Hollywood. It has been sued for refusing to admit a green-haired girl in a halter top to one of its parks and for refusing to allow two gay young men to dance together at another. Home owners at a residential development sued it for property damage from Hurricane Andrew, alleging shoddy construction. Female dancers at Cinderella's Castle sued it for negligently permitting peepholes in their dressing room. Disney has outraged Arab groups with an Israeli exhibit at Disneyworld. It offended keen-eyed Christian fundamentalists who spotted a penis on the Little Mermaid's video box and - with the aid of their freeze-frame buttons - a shot of Jessica Rabbit without panties - or topless, accounts differ. It shocked Southern Baptists by allowing Ellen DeGeneres to come out on Ellen. It upset much of the Continent by banning beards and mustaches on employees at Euro-Disneyland. It angered environmentalists by butchering buzzards that were preying on Animal Kingdom. It inflamed Civil War buffs with plans for a 2400-acre Disney America at the site of the Battle of Bull Run. It found itself in (insufficiently) hot water when those who manned its life-size Mickey-Minnie-Goofy costumes charged they were forced to delight and charm while wearing uncleaned underwear. And as it expands globally - it is in China now and opening up the rest of the Far East - it infuriates and terrifies many who believe their native lands' indigenous crafts, arts, traditions and cultures will be destroyed by its Blob-like appetite for market domination. 7.II

Meanwhile, Disney continues to be "fanatical" about protecting its own property. ("No company," wrote Ron Grover, the L.A. Bureau Chief for Business Week, "has been more vigilant in the protection of [copyright] rights than the Walt Disney Company under Michael Eisner...") It has tripled its legal staff and prioritized combating infringers. (They take, one of these lawyers told The National Law journal "a more restricted view" of fair use than most.) Its investigators patrol flea markets and survey street corners, searching out poseurs. It files several hundred lawsuits a year, bringing over-reaching T-shirt manufacturers, poster makers, and video distributors to justice. It has forced thousands of stores to abandon unlicensed suppliers - and then taken over most of these accounts. Disney once sued a fellow who tattooed its characters on his body. It sued a small chain of day care centers that painted Mickey Mouse and Donald Duck on its walls. (The chain replaced them with Yogi Bear, Fred Flintstone, and Scooby Doo.) It sued the Academy of Motion Picture Arts and Sciences for a dance at the Oscars that partnered Rob Lowe - of underage-sex video fame - with Snow White. It sued a Canadian artist who produced "Wishing on a Star" postcards showing Disneyland being destroyed by a nuclear blast. It sued the Italian magazine Play Man, for coupling its centerfold with Mickey Mouse. It sued Fox for planning a version of Peter Pan that included a Tinkerbell, whose representation it claimed to have created. It forced an émigré Soviet artist to end the display of his painting of Mickey offering a Campbell's soup can to another Russian. It forced Marvel to redraw Howard the Duck shorter, fatter, yellower, shaggier - and keep his pants on - so he wouldn't be confused with Donald. It threatened to sue Berke Breathed for placing a Mortimer Mouse in his "Outland" strip. When White River, the northern Ontario mill town where the bear cub was captured that became the model for Winnie the Pooh, decided to erect a statue to him, Disney blocked it. When the producers of the Broadway show Who's Afraid of Virginia Woolf tried to use the tune "Who's Afraid of the Big Bad Wolf," Disney stopped them. (They used "Here We Go 'Round the Mulberry Bush" instead.) When Random House considered publishing the Marxian How to Read Donald Duck, threats by Disney deterred it. When three academics compiled a collection of postmodern essays with the working title Doing Disney, Disney scared them into changing it, claiming even this mention of its name was actionable. Disney has also spent ample time at the other end of the intellectual properties counsels' table. It was sued by Jim Henson's estate for unauthorized use of the Muppets. (Disney settled with an apology) It was sued by the seventy-year-old, wheelchair-bound Disney has not opposed all adaptations. It generally gives editorial cartoonists and non-profit foundations a pass: and I have met fine arts professors who, with a few drinks in them, will swear they have proof that it even paid pop artists, like Roy Lichtenstein, Claes Oldenburg, and Andy Warhol, to use its characters in their work. (In September 2002, Marilyn Manson opened a display of his watercolors, including one of himself as Mickey Mouse, at the Los Angeles Contemporary Exhibitions gallery. As this went to press, Disney's reaction was not available.)

chair-bound Miss Peggy Lee for the unauthorized use of her voice in The Lady and the Tramp video. (She won \$2,300,000, which led Mary "Sleeping Beauty" Costa, Phil "Baloo the Bear" Harris, and the estate of Louis "King Louis" Prima, among others, to sue for the unauthorized use of theirs. Disney settled with them all.) It was sued by Alan King for stealing an idea he claimed to have shopped to Eisner while playing tennis. It offended Robin Williams by the unauthorized use of his image and voice to promote Aladdin. (It apologized with the gift of an original Picasso, though his manager/wife reportedly remained miffed because she'd wanted a Lear jet.) It had to pay \$10,000,000 for the unauthorized use of the European cartoon character Marsupilami. It was sued in 2001 for unpaid earnings by Gary K. Wolf, Roger Rabbits author. And it ended 2002 trying to hang onto over \$1,000,000,000 in royalties it was alleged to have wrongfully derived from Winnie the Pooh. While Disney's wealth and power have never been greater, it does not seem to me to any longer command its former revered position within American culture - High or Low. Its products, I suspect, no longer automatically summon forth the attention and respect they did when I was a child. Its appeal, I read, is limited to younger and younger children; and, even there, it is losing ground to Teletubbies. Its efforts at the hipness that would attract an older crowd - a Rock'n'Rollercoaster ride with music by Aerosmith, outfitting Mickey Mouse with a skateboard - seem clueless rather than connected to the zeitgeist. When it purchased Fox Family Network from Rupert Murdoch, it elected to rename it ABC-Family, rather than Disney-Family, so as not to risk alienating too much of the audience it hoped to draw. The term that has been coined to describe the way modern children are seemingly growing up faster and faster is "Age Compression." Disney claims awareness of the phenomenon and espouses confidence in its ability to withstand it. Deciding to explore the depth of its challenge for myself - and eager to share any light I brought forth - I put the following question in my best test-market-ing fashion to my twin, ten-year-old nephews, Izzie and Shecky: 'a' "What do you think when you hear the name `Walt Disney: `Pew!' `Wow!' or `Eh?'" "PEE-YOUUU!!!" they answered, rather too gleefully. "You think of cartoons and children's things. You think of..... They summoned up all the disdain they could muster. "... The Little Mermaid. Some of the old movies were good, but the quality has sunk so low the main viewers are kids under six or sick kids with the flu or something who have to stay home and there's nothing on TV. Disney's just a name to sell stuff. Walt Disney has nothing to do with it." "You sure you guys are only ten?" I said. In sum, Disney no longer seems to shine as a magic sword to wield against the shoddy nor an enchanted shield with which to deflect the worrisome. It is one r~ r __F, y.. . , ~. - , • °' ~ "0 Faithful readers may wonder what happened to my twin nephew and niece in my last book. Well, that entire family was a lie. This is the real deal. J4i

more entertainment moguldom among a fleet of many, dragging the public waters. It hooks; it strikes; once in a while it lands a whopper; but Michael Eisner could not, I imagine, appear on evening television, comb and avuncular, and expect anyone to kneel before him." The soul of Disney, I would respectfully posit, that led it once to produce a steadily expanding realm of wonders, has been stymied by the part of it that demands it glut itself on profits. (Kim Masters, in Keys to the Kingdom, damningly summons up the following Eisner quote: "We have no obligation to make history... to make art... to make a statement. To make money is our only objective.") These wonders may have been limited in scope, but they were true wonders, marvelous and, on occasion, inspiring; and if you remain in pursuit of wonders, who knows where you may get to. If your pursuit is of profits, you get to banks, to fancier boardrooms, to showrooms that sell yachts." In one sense, yeah, this squares with what seems to power this country. But in another, one suspects (or hopes or wishes) that while this drive (this greed, it could be called, this hyena-avarice) is met with "You-go-gal!"s, at the same time, there remains a lingering, subliminal shame, a repulsion, a wish of "There-must- be-more-than-this" that withholds the widespread celebration of the Disney company that once fell upon it, warm and constant, like Miami rain." " Ooops! News has just reached me that, in 1986, Eisner, slimmed down, stylishly clothed, and voice coach-tutored, hosted Disney's return to Sunday night television. Obviously, this made little impression on your local correspondent, but if his appearances imprinted themselves regalb' upon any of you, I am taking names with which to correct nrv next edition. (I might add, though, when I concluded the polling of my nephews, "And what do you think of Michael Eisner?" they answered, "Who's the?") "'This policy has worked so well that, in 199", not counting any paper clips he may have filched from the supply cabinet, Eisner brought home 85'Q000,000. (In the interests of fairness and full disclosure, rnv campaign adviser, Robert the K, has pros ailed upon nh(! to reveal I did not,) "' If you find yourself reacting, "Hey, that sounds good to me," you may not be my ideal reader. "' In the mid-1990s, an otherwise unidentified New Mouse Liberation Front issued a new comic. Air Pirates, in a "Special Pirate Edition." Denying am' affiliation with the original Air Pirates but claiming inspiration from "the importance and rarity of [their] original defiant gesture," it reprinted the two Mouse stories from Air Pirates Fvrnies, along with a brief summary of the case. To this "ges- ture," the New MLF added its own four-pager. That story opens with Mickey dearly recogniza- ble, masked by no stubble behind a desk, fuming about "fucking Democrats" revising the tax code and the cost of keeping "that old popsicle cryogenically prescr'ed. When his secretary. Clarabelle Cow• enters, he exposes himself and demands she relieve his stress by "chew[ing] on something besides your cud." When a man who has tattooed his likeness on his chest is hauled before him, Mickey wields a sword and claims "my cut" for this infringement. To complaints about company trade policies and environmental abuses, he responds, "I am Mickey Mouse and I AM the AMERICAN DREAM!! It's simple... I got mine...

FUCK YOU!" 1 N11

Dan O'Neill, after the Disney settlement, re-emerged - of all unlikely places - at the Chronicle. His strip, now titled "O'Neill," ran every Sunday for six years in its "This World" section. Again, the Chron hoped to syndicate O'Neill, promoting him as "a genius of the art of comics," and, again, he proved a difficult sell. Other papers regarded a weekly strip skeptically, and his effort was uniquely hard to take in. Its content was that of an editorial cartoon; but its multi-paneled format made it look like it belonged on the comics page, and its oversized scale made that placement impossible. O'Neill, of course, would not change a thing. He appeared as a character in most installments; but it was a kinder, gentler O'Neill. He sat in his Nevada City cabin, Bud in hand, watching TV, fished in Hennessy's Pond, rooted for the Giants, fought crabgrass, struggled to give up smoking. This did not mean that the legal process had deterred or rehabilitated him into "The Family Circus." His work remained political, but it roiled more with head-shaking bemusement than fist-waving rage. (A basic premise was that Ronald Reagan appeared on his television set one evening and asked him to be his Special Advisor. He also stole O'Neill's watch.) He tweaked the presidential nose here and there but levied none of the savagery one might have expected." Issues of the rimes flickered across the page - Granada, Beirut, Nicaragua, trickle-down economics, acid rain, nuclear pro-liferation - but the disappointments of two decades had taken a toll. The inevitable progress that did not occur. The sure-fire winners that faded. The allies that would join you on the victory stand who were gone. By the '80s, political issues had become as flies. You swiped at one and went about your business. You did not chase it around the room, out the door, across the yard, until you had pounded it with a hammer - or been strapped onto a gurney, Thorazine pumping in your head. You recognized there were too many flies. The one cause to which O'Neill remained committed was removing the British from Northern Ireland. Here, in a sense, he lived his art. This dovetailing began with the Falklands War. In his strip, O'Neill created an Irish Navy, three guys grumbling in a rowboat, to whom he attributed the sinking of a half-dozen ships, though "the Argentines took all the credit." He recalled them to service the next year to intercept the ship which was to bring Queen Elizabeth into San Francisco Bay to entertain the Reagans on their thirty-first anniversary. Over several weeks, he detailed his fleet's journey around Cape Horn, up the Gulf of Mexico, to the Colorado River where, rowboat and all, they traveled the final 600 miles to the Oakland estuary by boxcar. Here, they linked up with a flock of Irish Republican seagulls who dive-bombed the assembled dignitaries, ^r~.'v, .. _,'.`w. ~.~..~., V,,,.'~.'. r`^..r-._ ~ ,=,v~.,,~.,,--... .. _ , ..-.. .. ~`/•"~ 's' Expected, that is, if you are the author of "Republic," a short story (frying pan, August 1984) whose portrait of Reagan as a senile, child-molesting, Hunk-murderer still seems to him among the most accurate assessments of the Great Communicator to see print.

ruining the Queen's suit and Nancy's hair-do and driving the ship into the Berkeley pier. "A Great Day for the Irish!" O'Neill concluded. O'Neill says that, as the Queen's actual visit neared, he and the Mitchell brothers raised a four-boat armada, rigged with every Irish flag they could find. Then, armed with 750 pounds of illegal herring they had scored from poachers, they lured a 500 foot tall ball of seagulls toward Sausalito's outdoor Trident restaurant, where diners were "having their eggs Benedict and early morning martinis, trying to be Episcopalian." This exhibition of firepower caused a change of plans. "She got off the boat in Santa Barbara and flew in; and it's all over the English papers, 'IRA Tries to Sink Britannia.' The British Home Office even declared Northern California a 'No-Go' zone. 'You can never have an official visit again.' Thank you very much. Like we want the bitch." O'Neill also ventured into civic affairs on other occasions unlikely to rouse artistes of a more Proustian temperament. He assumed the editorship of the weekly Nevada City Independent and, in a few months, increased its circulation from 200 to 5000 while fighting off developers' plans to double the town's size. He ran for City Council, finishing third in a race for two seats. ("I was the people's third choice for second place," he says. "I didn't spend any money, because I didn't have any, and I wouldn't kiss any babies because they give you diseases.") And when Tom Forcade, the ex-director of the Underground Press Syndicate (best known for concluding his testimony before the U.S. Commission on Obscenity and Pornography by tossing a pie at it) and founder of High Times magazine, suicided, a fight for its control erupted between his widow and some reputed mobsters. Michael Kennedy, the estate's trustee, summoned O'Neill to set things straight. "He burnt my clothes, bought me a Brooks Brothers suit, and sent me to New York. I was there a month and fired \$140,000 worth of art directors. By the time I got the right people in the right places, I had sixty others looking for me with a gun." Gary Hallgren, who hosted O'Neill during his mission, recalls him returning one night to their loft, shoving the sofa bed against the door and announcing, "They're after me!" Hallgren suggested the Gramercy Hotel might better suit O'Neill's residency requirements. O'Neill politely decamped, but Hallgren's projected High Times cover, a full-color Mickey Mouse, his head blown apart by a joint, never saw print. Then, the journalist/pornographic film producer Gail Palmer Slater accused Hunter Thompson of interrupting a meeting being taken in his hot tub to discuss her acquiring the film rights to Fear and Loathing in Las Vegas by grabbing her tit, and the ensuing police raid turned up LSD, cocaine, marijuana, and "Photographs of the event reveal two Boston Whalers, one with one flag, one with, maybe, four. And John Hubner's book on the Mitchells, Bottom Feeders. says it was a press party, invited to the Trident, not casual diners, that served as witnesses. 7IH

dynamite on the premises. Before PEN had even drafted its first petition protesting the resulting criminal charges, O'Neill and the Mitchells had launched a support caravan bound for their old pal's home in Woody Creek, Colorado. "It was the Last Ride. Jim and Artie in a red '71 Chevy Caprice convertible, with a buffalo head on the front; two Winnebagos full of naked, dancing girls; freaky looking hippies; and a friend of mine with diabetes we'd sit out beside the road in front of troopers in Utah to shoot up. We held press conferences in whorehouses all across Nevada to show what happens when you mess with the Doctor. It ended with all charges being dropped." In 1986, O'Neill made another move that, in terms of career advancement, continued his program of taking one step forward, two steps back - and shooting himself in the foot once he had settled in.'s' William Randolph Hearst III, the Examiner's new publisher, sought to hire away talent from its major competition. Since the Chronicle was only paying O'Neill \$100 a week, he was happy to jump ship. But, it turned out, Hearst was more interested in bigger prizes, like Warren Hinkle, the swashbuckling ex-Ramparts editor who was then a Chron columnist, than securing O'Neill a plush berth. Unemployed, O'Neill had moved back to Nevada City when his oldest son died from AIDS. He did not draw a cartoon for a year. But when the Gulf War erupted, he again felt the call. His vehicle was The War News, a paper founded by Jim Mitchell, which printed anti-war material the mainstream media would not touch. O'Neill drew cartoons, solicited contributors, and served as art editor. Daniel Ellsberg, Krassner, Ishmael Reed, and Barbara Ehrenreich delivered articles and Crumb, Shelton, Flenniken, and Spiegelman, cartoons. Looking ahead to when the conflict concluded, the News planned to take on AIDS and homelessness. But one night, after only two issues had appeared, Jim Mitchell went to his brother's house to coax him out of an increasingly troublesome pattern of drug-and-alcohol-fueled behavior. Some of this behavior had involved guns, and Jim Mitchell had gone to this meeting armed. Before the night was over, Artie Mitchell was dead, and Jim was under arrest."

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r,.r-.,.r,~.y 187 Richard Milner says of this tendency, "O'Neill once did a strip where, in the first panel, this guy is screaming at the sky, 'Bring it on down, you dumb bunny!'; and, in the second, a giant rabbit's foot mashes him flat. He gets up, screams it again, and gets mashed again. 'Whys he keep doing that?' Hugh asks Fred. The answer is 'He's Irish.' Well, that's O'Neill." 1H8 Jim Mitchell was charged with first degree murder. After a three-month trial, defended by Michael Kennedy, he was convicted of voluntary manslaughter. O'Neill and Hinkle covered the case for the rabidly anti-establishment Anderson Valley Independent of Mendocino County. "It wasn't jury-tampering exactly," O'Neill says, "but suddenly this paper, normally not seen south of Ukiah, mysteriously appeared at every 7-Eleven a juror was likely to pee." Z4/

O'Neill surfaced from his friends' tragedy at the Bay Guardian. His weekly strip, "Dan O'Neill" (later, "Odd Bodkins") centered around a Nevada City bar, The End of the Trail Saloon, whose habitués included O'Neill; Aloysius Xavier Magillicuddv, its proprietor: the leggy Miss Lily, who cooked; Hugh, who swept up; Fred the Bird; and Bill the Horse, who flew well enough to travel through time, played piano, and knew all the words to "Hooray for Captain Spaulding." Much was familiar. Digs at fascism and Richard Nixon, allusions to free will and the Disney suit, conversations with God. But O'Neill still wrote Saturnian rings around most cartoonists. He had not lost his ability to toss off the stride-stopping line. "' Age had neither blunted his political edge nor reined the flying ponies of his imagination. He continued to assert his thorny, idiosyn- cratic self - inciting resistance to everything from further U.S. involvement in Colombia to plans to route 180 giant water trucks a day through downtown Nevada City - even if these assertions caused the Guardian to inter his work among the classifieds, buried deep among calls for used accordions, ejaculation aids, and Jamie's search for Paul from the --22 Fillmore. There has always been a lot of America blind to O'Neill, deaf to him, obscuring him. This has never kept him from his best effort to hit the right notes to crumble its walls. Greil Marcus has written, in *Mystery Train*, of those luminous popular artists - rock 'n' rollers, in his case - who, in taking on the risks and responsibilities of dramatizing "what it is to be an American, what it means, what it's worth, what the stakes of life in America might be." struggle to formulate a vision for "a world where we can feel alive ...ambitious and free... dispensing with the rest of American reality if we can." They are, Marcus says, striving to "lift America to heaven or drive a stake through its heart." O'Neill, I think, continued to rank with the best of those. Then, in 2001, the Guardian, for "budgetary reasons," let him go. In late October, Adele and I returned to Nevada City. ("Are you coming for the autumn leaves?" our hotelier inquired this time. "Absolutely," I said.) On I- 80, past Sacramento, a dark scrim of clouds filled the horizon. Penetration seemed problematic. "Come on down, sweet Virginia," Mick Jagger sang. "Welcome to California," a bumper sticker on a passing pick-up answered, "Now go home." Traffic clotted all lanes. "At this rate," Adele said, "we'll never get there." The plan was to meet O'Neill the following afternoon. He would take us to the cabin at the gold mine where he lived. He would fill holes my narrative stumbled over. He would resolve contradictions that tied it in knots. I especially My favorites from this period include All Americans have family overseas... With the neighbors shooting at them"; the query" b}' John Wesley Horowitz (the not-just-a-wandering Hebrew of the Old West) "How come the Ishmaelires got the oil and we got the end of our what cut off": and, when Bill is seated at a restaurant ahead of a snooty French philosopher, "You put theez horse before Descartes'" "Exactly." UI

liked the idea of concluding at a gold mine. I intuited much metaphoric room to bounce about in. The next day, I called O'Neill's message number at 10:00, 11:00, 12:00, and 1:00. Only an answering machine responded. I noted the progress of our day (to a garage to check an oil leak, to lunch for a club sandwich, to the café for a doppio...) and, by my tone, a developing annoyance. At 2:00, when I concluded the day doomed, I did not say what I would be doing. Which was... pace. Stare at the changing leaves (Overrated!). Stroke the gray cat until my allergy exploded. Throughout, I auditioned the tragic, the reasonable, the semi-crazed for explanations. I was frustrated, mad, not ideal company for a getaway weekend. Adele suggested a drive. The word in the street - in the parlor of our B and B, actually - had put a name to O'Neill's mine. It was no inescapable conclusion. There were other worthy contenders. Even if correct, there was no chance he would be there. But I sensed a satisfying paragraph. We rode north forty miles. We traversed a mountain ridge. On one side of us was chasm. On the other, forest rose. "He never got out of childhood," Adele said, turning pages of my still-in-progress manuscript. "Who?" I said. "Latency, actually," she said. "Walt Disney." "Latency," I said, "had not occurred to me." "He needed to maintain a child's fairytale view of the world, where only the good and pure are rewarded," she said. "The next step, the step he did not take, the step which turns this world upside down, is adolescence." I hugged the Honda to the center line. It sucked it up for one more ascent. "The Pirates, of course, were great adolescents. They were also talented and smart and in touch with passions that they knew the hand of a Disney would squelch, so they turned their art against him. Disney was talented and smart too, but he was hampered in where his art could go by his abusive childhood." "His father," I said. "That leather strap. Those newspapers delivered through snow." "The rage he felt must have been enormous. It would have led him to fantasies more horrible than those in your E.C.s. That's what he fought all his life. That's what gave rise to his zany belief that he had to save America by turning it into a child's land. Otherwise, it would be overrun by the release of forces as terrible and frightening and potentially destructive as those in his fantasies." She looked into the forest. Planning our trip, she had told O'Neill we must return from his cabin before dark because she feared narrow mountain roads. He'd replied the road was fine; then he mentioned weasels, bobcats, red-balling eight-teen-wheelers toting timber. "You can tie a six-pack to your bumper," he'd riffed, "and troll for bears. Or go down Sixth and Market and troll for Indians." "What he did was terrific. Even the Air Pirates enjoyed them when they were 2,49

children. But, unlike Walt Disney, most people don't remain children all their lives." "So you had Disney trying to protect everyone from adolescence and the Pirates trying to welcome everyone to it with streamers, confetti, and party balloons - most likely filled with nitrous oxide." "And in the end, none of it made any difference. People read the Pirates' books, and some were appalled, and some said, 'Oh, wow!'; and some went on to vote Republican and some Democrat." "And probably all of them let their kids watch Disney." "Probably. The world is neither a totalitarian state like Disneyland nor a free-floating psychodrama like the Pirates' warehouse. It is not so fragile; it is not so easily changed; in the end, it's not so easy to topple things. The world is pretty stable, for better or for worse. Disney wasn't about to be annihilated by comic books like the Pirates hoped - or as its lawyers feared. The only thing that keeps me from being absolutely furious at the case's outcome is that in the end the Pirates got what they wanted. They did their books; they got attention; and, to someone with O'Neill's turn of mind, they could claim to be victorious." "The sign posted by the town said "POP. 150." The next one was not as over-built. We hung a down-grade right. A rusted gondola car brimming with crushed rock marked the mine. A plaque saluted a nugget named "Big Whopper." Across the road stood two green-and-white, wood-frame houses, with aging sedans blossoming in the front yards. From the salvage, three skinny dogs yapped toward us. A brindled gray male, an orange-muzzled bitch, a pup with markings of both. "NO ENTRY," welcomed a sign at the mine's portico, "CAMERA SUR- VEILLANCE." I pocketed a fortune cookie-sized chunk off the gondola, wondering what jack-booted troopers that would set storming my door. The air cut through my leather jacket. The light stung my eyes like chlorine. Throughout our short history, gold mines have centered archetypal American dreams. In our national imagination, they incubated a particular form of personal redefinition and rebirth. The kind that cast off security and comfort. That braved wilderness and renegades. That had room for honky-tonk and hookers and letting it all "This "turn of mind," Adele also once explained to me, when I was sputtering Gale Gordon-like over my inability yet again to match O'Neill's account of an event with what I was learning else- where, could be viewed more generously than my nit-picking moments allowed. "Sure, making up stories can be viewed as a deficit. But, with O'Neill, they could be considered a mark of genius. Seeing yourself in the center of a world of events, ideas, causes, where what you do and think make history, is a big vision. It easily justifies elaboration. Like with all visionaries, whatever happens to him becomes the next level of a story by which he instructs social primitives and other comatose individuals who only wake up through a good story to the happenings of the world.- "It is a damn good thing for American letters," I said, "that I have you along." 2110

ride on one spin of the wheel. You took the risk; you battled through the handi-caps and odds; and when you raked in your rewards - if you raked them - they filled your pockets and overflowed your arms. The thing about mines, I thought, is you have to have the gold in there. Then you have to dig it out. Then you have to hope people don't decide they'd rather have zirconium. When we got back, a Post-it announced, "Your guy called. He can meet you anytime." We settled on the same bar. Adele refused to go. The baseball playoffs were on, and, having suffered formatively as a Red Sox fan, she had recently switched allegiance to the Yankees. "You would not believe the pleasure in rooting for winners," she said. By the time I arrived, dark had settled. Overhead lights heated the patio. All around us, reconnoitering couples, assaying the evening's materializations, clicked bottles against glasses, exchanged tales of origin, excursion and arrival. O'Neill was abuzz with news. He was organizing a coalition of loggers and environmentalists to save the Sierras. He had uncovered tapes from Belfast ("My mother made me clean my room...") which would prove to the tribunal investigating Bloody Sunday that the British fired first. He planned to re-issue "Odd Bodkins" books and sell them on his website. And, best of all, his strip, while now confined to the Mountain Messenger, a Downeyville paper of circumscribed circulation, had been accused of violating a gag order imposed by the Sierra County Superior Court judge presiding over a criminal investigation into the death of a miner in an industrial accident. Then, between sips of cranberry juice and drags on his Camels, he answered my final questions. "So," I said, two hours later, "what's the ultimate message? How'll we put the kids to bed?" "Any damn fool can quit." O'Neill lifted his hat and ran a hand through his hair. The smoke from his cigarette ran away into nothing. "My day in the sun may've been a long time ago. It may not happen again. Not that that has anything to do with anything. If I can't do something for myself, I can do it for someone else. A comic strip makes people laugh. And there's nothing more fun than doing a comic strip. It makes for the greatest daydreams. The greatest rides. You're on twenty-four-hours-a-day every day." His face took on the light. Years faded away. "That's what I want on my tombstone: `He had too much fun.'" 2;I

INUEX 2 Li,-c Crew; 231-232 10, 000 League, ursdr, the Sea, -3 ASE. 241
ABC. 240, 241. 243 .Abramson, Elliors M., 228 Abzug, Bella- 24 Academy
of Mnrion Fiance Ara, 2 Aa. 36 Amon, 30 Acuff-Rose, 231-'32 Adler,
Charlie, 13 Ads-n, ur , off oo, 39 Adoenrnrer of Obad,,d, Oddbnck, 28
Aerosmssh, 243 Agee, Jam -8 Agnew, Spiro. 114 Air Pharos Fannie,. 49,
51. S'- 59. 62. '9. 9'.98, 100.101.105.10-.119,123. 132, 13--139.
148-152, 155. 190. 193, 214,215.226,233 Air Plaros, vi, -. 43, 50, 53.
55, 6-, -9,83. 8',91-111,113,116,119-121,122. 123. 124, 130, 132-135. Air
Plaros, vi, -. 43, 50, 53. 55, 6-, -9,83. 8',91-111,113,116,119-121,122.
123. 124, 130, 132-135. 183-194. 195- 196.(98.204,205.20'-208._212.214.
216, 231. 233, 236. 249. 250, 253 ALv41in, 240- 243 .Aldridge. Alan, 28
Alice in WirsdesLand -4 All American Hvmic," 113 All Spades Now, 234
.Alliance Pars, I I5 Aloma Sue 45 Amburg, Van. 25 American Civil
Liherries Union. 35 ,lm ,r Grafra. American Greerings.38 Amr an Lauorr.
236 American Sd,olna'l American Zoerlope. 58 .Maheim Angels. 241 Anson
Cans' /ndeprndrrsr, 24- P.nderson. Aldon, 198 Andcaon. Hans Chdsdan. 238
Anderson, Sheridan, 58 .Amer Nm-elriu. 40. 131, 238 Apple Dump/ing Gang,
131 Aquaman. 36 Aragonos, Sergio. 196, (phom) 1-0 AraAr. 130 Archie, 36
Arkln.,Slan, IS Arlingmn, Garv, 55, 63. 99, 253 Armoge n Comfier. 59
Arnold, Sranlcigh, 23-24 Arr Dge,r T A, Qean a, Tb,'s Cbme, 231-232 .L N
-y an They IYánrsa Be. 231 A,wdann of Comic slag- Publishers. 3 Aarl.
235 Ada,, 36 Amor,, The, 36 Audio Highway. 235 "Aura Light" 88 Avalon
Ballroom- 116 Avalon. Frank,, -S Aærsges The. 3- Avon, 36 Baez, loan. 46
Baglev. John. 50, 58. 123 Ballyhoo. '- Bamh,. - Bank of America.
Barbarella, 209 Barker. Marsh, 32 Bark,, Carl. 13. 31 Barnes. Cli,e,
63-64 "Bayne, Google. 2-, 46. 109 Baraa, "Fruckcr lot 59 Barren John-
219 Barrier Michael. 28 Basilan. Bob, 14, 15 Bare,on, Gregor,. '_04
Barman. 30. 34. 36. 23' Baumgarr.. Ron. 130 Bay Area Bnhrrnu-z 39 Beaus
-do,, Bea.-r, 240 Beck. Joel. 39. 238 Beebe. Lucius, 14 Beerbohm. Roberr
L. 28. 134. 219-221. 235, 253 Beetle Bails. 11 3 Brn,y r Lneu l,a.
88-89. 110. I8-. 192, 200 Benin: Jack. 88-89. 199 Boron. Per 254
Berkelry Barb, 39. 41.45. 93 Berkelry Rnveu. 13-14 Berkel) Tesbe, 45-46
Bed,n r. EC Pubbrarrorss. 89, 192. 200, 216 Berman. Shell,, I5 Bcm Boop,
109, 193 B9a,ul rho Gmrn Door, 133 Biafra, Iello, 106 Big Bad Wolf, 50,
56, 65. 83, 9-. 100. 214 Big Book's Marryrs, 236 Bag }ellauo Drm<'ing
Book, 7bc 133 B, ,ks Brown Mee-, the Haly hirgrn Alan, 38 Blank Elk
Speak,. 2 BL,rk Holy The. 239 Black Pannc~r Pars, 12. 185 Blackboard.
Bill, 21. 68. 99 Blade 23% Blass. Valcnrl no and Kline. 21 I `Blndie.`
18 Blood, Sunda,, I IM 5 and R,, 8- " Vaughn. 59.134 Bohemian Club. 24
Bonin.. Peres. IS Bo..-en, Rebecca. '54 B,'d. Robert, 48. 54.56
Bocingmn. Pappc. 1 I Bradhun. Ras. 36 Bradlee. Ben. lí Brand. Slichelle.
63 Brand. Roger '38 Brand. Sreuarc. 204-20-.210.211-214, 34-235 53
Brandeis Loafs Demblç 206 Bran do. ,larlun. 8- Breached. Berkele,. '_42
'Bringlne Up Farher.- d- Brown. Ch-- 238 Brown. H. Rap. 2 Brown, k- 211
Bro,,ne. Dlk. 208 Brut:, I ono,. 16, 88. 12S "Bucks' Goo, West 151 Bungle
Famlh,. The- - Bunk Buford." 2- Buss,, IFëek. 24_ Ban Ti,, Odd Brdk,rs-
Bonk. I i, Caen. Huh. 14. 15. _'a, I (5 Cae,ar. Sad, 89.]99 Cake and
U-Dods. 1 " Cake. Lee. I2' Caliornia Comics. Ill California Insrince for
the Arrs. 81 Làmpbd1 v..-kv}JRmr lfuo,. In, _ 231 Campbell. Lusher 231

Ca,off, lilron, _'9, 1(18 Capain America. 31), 36. 3- Caprain and rhr
Kid,.Th0, 28 Gaprals FO. 240 Caprain High.- 39 Caprain Nand, 30. 31
Carmichael, Smkeh. Carroll, Jon, 99 Car,er. lames M-, 8- Canoon Arr
Museum. 236 Camoon H6-son' ofrhe Onü-arse. 209 Carcoonisd Coop.....
Press. 130 Casebec Craig H., 20- (7,p, the Frro,dly Gho,r, 36 C r from
Decor Sparc. The. 239 C muss' of C.omia, 28 Cenanres, 98 M

Chamberlain, Wlmm Norman, 220 Chambers, Richard, 198 Chaplin. Charlie,
70 Checch Wizard, 59 Chicago Arr IrLnirute, 72 Chicago Daily Nerua, 6,
32 Chicago Seed, 46, 81) Choslip, Bmæ, 254 CIA, 2 Cinderella, 74 City
Light Bnks, 207 City Magaoo,re, 1 33 Clark, Frcd, 2 (Or ar, 1/1 aaeae4
36 Clean r ra Frpra,, 45 Cleaver I ldridge, 2, 234 Clinton, Bill, 227
Clinrno. Hillary, 44 Chow-, D- 238 Co. & Son, 5(1,123,131 Cockeaas, 63
'Cody," 235 Ca-Eaohrrion Qua rerl_v 2204-207, 212. 214 COINTFLPRO,2
Collared L4xwrdencc of Odd Bodkin, 16, 210 Colludi, Carlo, 78 Colson,
Chocks "Chuck, 24 Cohrnbir /'larrra Corp. v. Narimra/ Broadca,rhrg Co.,
89 Comte Boak Calnrce. 237 Comic Magazine A,.mciarion ofAmerica, 35
Comic Media, 36 Comic, and Comm 134, 195, 219 Comics Code Aurhorlry, 35,
40, 128, 237 Comic, /ornwI The, iii, 14, 31, 32, 48, 131, 254 Comic
Month lv, 27 Comic Srene, 223 Cnmicq The, 29 Corals Book, 130 Comix, 33
Conuniacc on rho Fvaluarion of Comic Books, 33 Crnm,rrro Thr, 15,99
"Communique Cl from the M.I.F.," 205- 210, 212-213. 219, 221 Cnmlydated
Fibre,, Inc., 183 Cooley, Crowley, Gaither, Godward, Canto & Huddlrsmr.
83-84, 92, 101, 119, 122,199,207,234 Cooper Alice, 128 Cooper Gary, 7071
Coppola, Franci, Ford, 58 Copydghr Acr of 1909, 213 Copyright Arr of
1976, 199, 201, 212, 213, 232 copyright, 85, 86, 98-99, 109, 1 1 0 , 1 1
1 184, 186,187,192-194,199,229 Costa..Mary, 243 Craig, Johnny, 31
Crandall. Reed, 31 Crane, Buy, 108 Creators Syndicarc, 108 Co--, Lloyd
210, 223, 253 Co,- Frcd 184 Crboe Dar, Nar Pay, 30 Crime Srap-Storior
31, 34 Crosby, Perry, 28 Crumb, Robert, 38, 390, 49, 63, 94, 127, 129,
238, 247, Crt-r. Ho. and 222 _ Crypt ofTerror, 31 Cummings, Robert, 75
Cummings, Walcer J.. 198, 200 Cunt, 129 Daily Caperton, 24 "Dan O'Neill,"
248 Dan O'Neill, Ciotti,, ard.5boria, 50, 116, 134, 219 Daniels, Les,
28, 31, 33 Dame Macabre. 31 Daoder'i/ 37 Darrow, Clarence, 33 Davey
Crockeu, 74-75 Davis, Angela, 2 Davis, Jack 31 Davis, Sammy jr.. 75 DC.
30, 36, I 27-128, 237 Dead Kennedys, 106 Dean, lame,. 88 Doi-k, Billy,
46, 105 Dabs, Eugene V., 68 Deep Tbroar, 12' Dees, William, 231
DcGenvrns, Ellen, 241 Deitch, Kim, 411, 63, 130 Delacoa, George, 27.28
Delaplanc, Stanton, 14 Dell Comics, 13, 27, 36, 63, 101, 102 Dercrivr
Comic, inc. a Bnxua Prrblicarlon.c 109 Demote Annie, 45 Deaa/ "W",
forma, The, 12 Devlin. Bernadeta, 115 DoYoung Museum, 22 'Dick 1,,cy.'
22, 28 "Dickic Dam," 29 Dirt), Doak, 46, 48, 50, 51. 58, 611, 106,
114,156,215,235 Dimes Vero-, The, 70 Disney, Edna, 81 Disney, Elias, 68
Diary. L/ban, 67, 69-70 Disney, Raymond, 68 Disney, Roy, 68, 69, 73, 81,
101 Disney, Ruth, 68 Dams, Wale 7, 67-73, 81, 100, 101, 249- 250
Disneyland, 74-76, 80-81, 105, 240. 241, 243 Disko, Steve, 37 Do Cry,
131 Dodd, linuny, 79 Duddy, Smarr, 22, 253 Dori Shoa,' lGe Arr Yrr,
Child-, 184 Donahue. Don, 30, 39, 411, 63, 92, 238. 253 Dormer laid, I
larry, 30 Doonesbury," 184 Dopia, D-148,60,65, 113114, 155 Doi-Fin-
Ariel, 79 Douce, Iiho, 238 Dorn cad Orr L, Ber,rddy Hill,, 2411 "Dr.
Arumic," 58 Dr. Saange, 37 Dc Snangelave, 45 Dream Time, 38 Dreamworks,
235 Drivbrg hra the S,boaruioru, 236 Drmcw the Sarnd raf My V-, Talking,
16 Duch-p, Mated, 29 Drrnbo, - Dylan, Bob. I EC Fara Bullet,,, 195 E.C,
3132, 36, 63, 79, 128. 132. 230, 248 F7 Wlf 209 FT_ IXo/f i Aarral
Ourhau,e, 209 Han Bay Ray, 106 Ear, Vr'l@g, Other, 39, 41, 42 Easærn
Color Printing, 25, 36 Egberrr Sousa, 45 Ehrcnreich, Barbara, 247

Fhrlich, Paul, 204 Eiscnhowcr Dwight D.. 5, 77, 198 Eisen-in, Scrgrl, 72
Eisner Michael, 240-241, 242. 243, 244 El /'er/eno Comic, 113 Elder
Will, 31, 101, 226, 230 Elecnc NrolAid Add Tear, The, 204 Elecrn, nlc
Frondcr For odarion, 234 Elio, Marc, 73 Eller, 241 Ellsberg, Daniel, 247
ELrnere Mraic, lee a. NmLma(Braadcaar, rrg Cnrrpary, 228 Er p, re Strike,
Nark, The 234 E3aydopedia Briram, ira, 70 Erli, rrd Tirua, 1 14 Erhard,
Werner, 234 Ernerr Cora ro Camp, 240 ESPN, 241 E, q, dre, 208 Earrcr, ,
Mark James, 54 Evans, Dale, 75 Evans. Gmrgc 31 7 Fabr, hno Ferry Freak
Boothrrz, 38, 23 F u o/ Life Frmiea, 11 3 Fair c, 86-90, 98, 102, 1111,
183, 184, 186, 187, 190, 192, 193. 194, 199, 200, 201, 212, 216, 228,
229, 232, 233 Fairbanks, Douglas, 70 Fierily Tarr, 195 F: e, aro Fr m s.
28 /rr, rraara. 72 Forarrir Farr; Thr, 37 fanzines. 195 Farber, ,Manny.
78 Fast Draw, 1 16, 209 Farr, Doug, 47, 52 Farrow, Andrew, 234 Na
"lmdia, Car" 51 Faulkland-, War, 245 Faulkner, Wllliam, 98 FBI2 2 /oar
and Lambing in l. u Vegas, 246 Fciffrr, lulr, , 18, 28 Fddsrcin. Al. 31
felt., the Cdr, 55 f-irlding, I lcnry, 98 Fields, WC , 46 Fill murr
Ballroom, 116 Firs, Amcndmen, 50, 93, 98, 102. 111, 183, 184, 190,
192-191, 1 99, 200, 202, 206, 208. 2_12, 21. 3, 215, 216, 223, 225 Heber v Ure, ,
228 Fisher, Bud. 46 Fiebr Eddie, 37, 76 Flash. 30, 36 Fl-, he, Srrrdiar
it Ralph A. Freradlidz 109 Hcnnikcn, Shary, fbackground 43, 47-48,
51. 52, 53, 54-66, 83, 91, 95, 101, 104, 106. 113, 114, 115, 125, 133, 134, 140 141.
156157, (photo) 161, (photo) 167, ph(u,) 168, 195 196, 208, 235-
236, 247. 253 Flower, loo, 131 T Gan ~, -Mar i, , , 86 Fnd, , lanr, 24 For a
/-éu- Dollar, Mare, 45 F , , b, , , 235 Fxcado, Turn, 246 Ford Tennessee
Ernie, 74 Forxru R.H, 116 For, yth, , lam, I Farry Year Old Hippie, 209
Fo-, , j ames, 183 Fax and the /bend 239 Fox, 242. 243 Frror, , Roo, 28
Frebcrg, Stan, 87 Friel-d. Rod, 63 Fritz Or Car, 127 Prom Here m
Fernley, 89 "From 1 It, , to Obscurity," 89 Fronrlbae Cmbat, 31 "lrosry
Avers, ' 27 Full, ,. Blair 184 Funicello, Anneuc. 75 F, -o, r, Parade, 28
Fmr»e, . The, 27 FirnnyAminah, 130 G.I. Blue, , 113 Garoa, , Max Charlr, ,
27-28, 3031 Gaines, Will-, 30-31, 34-36, 230 Gallery, 135 Garcia, Jerry,
106 Garden, Max, 132. 197 Carry, Charles, 185 CaaGgbt, 88 Grerde, , Clay,
132 Geller Uri, 128 'Gencml', Daughter. "Fhe," 113 Gerc, Richard 231
Gilbcmn, 36 Gilman, Jahn, 95 Gilmour, Grorga 185-187, 234, 253 Cive tile
Liberty, 209 Gladiarar, 30 Gladnc Comics, 239 Gleaeou, Ralph, 14 Glide
l'uhlicariona, 120 Global Businca, Nrroak, 234 Glocckncr, Phoebe, 238
(, , d , V, - 39 Cadfarhrr, The, 58 Gild Kcy, 13 Goldberg, Arthur, 203
Goldberg, Gary David 195 Golden Garr Pohl, A, ug, 40 Golden Gam, 131
Gnldwarcr Barry. 22 Gini, k, larrv. 209 Good //ou, rkrrrprap 68 ~~lii

From Index Page 3

Gord,. 3X6,3, l.. 229. 233, 254 G"rhh BG,np)York,, so Corr),ad,on_
Floyd. 3I Gorda,,, Ron. 28 Graham, Billy, 3. 11 Gramm.... h,,rmrre o/ the
6ragG,l, Language- 85 Gop/ro Srer, Won/ad 132 Grarchrl Dead, 114. 120
Grear Sanri,,, 45 Grezn Avow, 30, 1'8 Grzzn lan,,,,. 30, 16, 128 Green,
luxin, 40, 49. 130, 21)9, 238 Greenfidd, !Nark r'zzln., (;arden) 252
Gregor,, Dick. 125 Gregor,. Roherra. 238 G,,8 in. Rick. 49, 5-, 129. 238
G08,6, Bill, 40. 129, 130, 238 Grimm. -8, 238 Grorh, Han, '8 Hallgrzn.
Gan. 43, (background 46--_ 48. 50. 51-52, 53, S-a 66. 83. 92, 93. 94_
95.') , 99-100. 104, 106, 10-. 113. 114. I16, 1220-1'1,124,133,140-141.
153, 156-15-, rphornl 160, phom) 166, 1-1-1-3 1-6-1-'. 195-196. 2201;, 2
15. "n 2,, ,35.'_46,'53 Halyonik. Paul. 66 Hamm,,, . DooR,)), 109 Hampron,
Mar:, 2 Band. I varned_ 11)22,110.193 Hanna-Barbera. 210 Ilannah,
Darnel, 239 Hanock. Roth- & Bunshofr 216 Happy Dar,, 240 Harr Kra 209 f
/ ,A, 1/,,: -5 Harris, Intl C_handl,,. -4 Harris, 'al ..ERR, COD:1..

253 Nl,) Steve, 24 Mein Knmpfi 13 ,Melinkofi. Abe, 23 Mdh,w Car," 210
Mrndcs, Willie, 63. 238 Nier,han..Ivory, 241 Al-- ofrhe Move, nena 62,
65, 114 Messmer, Ono, 56 SlcvomcYha, 1 1' Nlemq,ohran N ,,m of Modern
:ln. Meyer, (icorge. 20 Al,, ke) Manor Cb,/t, 75 lb, key Moo e Meen rho
Air Pirate,, 105 Suck,, Morose. -, 31, 50. 56, 60, 64, 65, 67, "0,
'1-72, 83, 86, 94, 95, 9" 98, 98-99, 100, 103, 107, 119, 200-201.
205-206. 217, 221, 222, 226, 233, 236, 242, 243 A9irkn Mane- The
Pivdutmn, 78e /.good. The Phenomenon, 95 Ni. k,yr KO,chn, 241 Midnight
-d J,--1, 73 Mighty Ducks, 241 Miller v. C,nlifornia, 129 Viper, Mlmh, 74
Million Do(/ar D,,k. 1.31 Mills, I laley, 77 Milne,, Ri,hard, 135, 254
Mirumax, 241 Miss 15 ,h," 23 Mi,dull, Artie, 12, 55, 66, 106, 133, 135,
246,247 Mitchell, Jim, 12, 55, 66, 106, 133, 135, 246. 24' Aladeru Sc-
27 Moi M,,,,, 9,-- Sro,v. /U 73 Morse. Alba,, 93-94, 107, 111, 120,
124, (phocu) 165, 208, 233 Nlusaoso, Vícrnr, 40, 49, 57, 129 Mo.sgoflan,
L,von, 116 Alamna,n Meoenger, 251 ' M c S,o "97 bfr. Aar,nal 63 Munler
r, rho Conrpim,y Cermenrion, 235 Murdod,. Rupert, 243 Murphy. Chocks 1: ,
35 Murpby: George, 73 ,Murphy, Willy, 58, 62, 105, 113, 114, 116. 130,
0,196,209 Mussolini, Benim, 70 'Mon and Jeff," 27, 28. 46, 109, 199
My,tery Lain, 248 Namazh. Joe, 24 Nation. The, 78 Nalonal Congress of
parents andl,a,her,, 33 N.rr,e,ral Geographic, 77 Natiomd Lampoon Goa m
the Movie,, 236 N bona(Lampoon, 121. 133. 206, 209, 235 Nruo,nd Lam
learn,,!, 242 Nat al O8ee of Decent I ,r,ramre, 33 Nan, ál H&rory, 135
Ncnerville, Via- S., 88 ,tat ('yt /ndeprrrrdenq 246 N --la (:oanry Nagger
13 AN, Cantu, The, 28, 1 30 Nero Pin,, 28 Nw GY,,,,,ry, The, 59 Now
Mo,,, Libcm,lon Fton,, 143-147, 244 Nero R,poblir, The, 78 Ne,e W,,,
133 New York Comic Rook Convention, 220 Nam York 10,, 46 Nam lark Ti-
The, 3, 208, 235 New Y, k,,, The, 20, 72 Newhall, Scorr, 14-15, 23
Neumveek, 6, 41, 77 Nownm, Huey, 12 Nice Gnyr.Sleep Alone, 236 Niekelar!
on Magazine. 235 Ni,hol,. Mike, 15 N,,kletres. 63 M---, Copyright 187
Nimmcr, Nlelville 1318-, 192, 201, 213, Já233 Ni.,[, Circuit Coup of
Appeal,. 88, 89, 109, I I , 187, 194, 197-201. 206, 208, 216, 225.232
Nisker. Wes, "Scoop." 115 Ninon" Roltard, 2 . 21, 24. 43. -3. "6. 80.
108.11,1,12-,248 N:1,, Carl. 23, 253 Nord, Big Daddy Ld, 117 Noodling,
lac 254 Noah, Ohvcr, 234 Nor,h, S,erling, 32, 33.'3 Nonhern Inland Civil
R,gh,, As,o,ia,inn, 115 Novelle, Don, 63 Nyberg, 35, 36 O'Brien,
Geoffrey, 38 OTarrell l' ware,, 12, 52, 63, 117, 133, 204 11 Flaherty.
Terrence, 14 O'Neil, Denny, 128 ONelll. Dan, vi, 6, 9, (family hi,mry)
10- 12, 13, 15. 16, 17, 18, 19, 20, 21, 22. 23, 25, 43, 44, 47, 48, 49.
50, 51, 52, 53, 54 ,6, 79, 83, 9 L 92, 93, 93, 94, 96, 9-, 99, 100-101,
105. 106, 107, 108. 110, I I I . 1 1 5 I I ". 119. 1211-121, 124, 125,
133-135, 140141, 142, 148- 149, 156-157. (phmo) 158, phmo) 165, Iphom)
166. (pbou,) 169-170, 185, 188. 19(7-191, 1')4, 195-196. 199. 20 I.
2R3-208,210,211-21-,219-223, 226, 229,231,2-36.245251,253 O'Neill, Ilugh
D., 11, 13, 116 ONeill, Marian, 11. 13 "Odd Bodkins," 6, 13, 14, 16, 17,
18 19-25, 44, 4850, 55, 63, 1(18, 120, 134, 204, 215, 248, 251 "Oh,
l',,,',,, Woman,' 231 On the Road, 12 0,6ío,,,, Rov, 231 Orlando, Joe. 31
Msbornc, 238 "Outland," 242 Paramour, /';,,reran, 24(1 fork,,, Pest, -4
Paul, Charl, S., 20' "Pcanuo," 6, 14, 17,45 l'dlgm, 1)1 L, 106
fenny-Ante Rrpobliran, 116, 117 Pentagram Press, 123 Penrhaa,r, 127

People; Corms, 131 P-oplcl Nickelodeon Cinema, 63 /'coma George, 28
Pere, Pau, 74 phantom Blur, 65, 83, 98 l'hiladelplt.t Art Alliance, 72
Phillips, David C., 106 Phillips, David F., 93, 94, 103, 120, 121,
(phut(164,234,253 15cklord, Mary, 70 Pinnre.Star,, jr- the BJble, 31
l'i(bb,,re , Mi(ky Way l'raduraim,r, 228 'inc Ridge Reterva,ion, 116 h,-
l-, 72 Plano, Bud, 1 34, 219, 235, 253 Play Man, 242 Playb,,), 208, 235
l'ltygtrl, 236 Plymcll, Ch:nlcs, 39 l'lympnm, Bill. 59 l'odrelch, Wilf d
"Sony," 54 IS,,. Edgir Allen, 98 pogo." 13. 45, 4- Pero, Canner-Point,
109 POINT2(4, 217, 21 I pally ,;,,I Ilc, Pal,,,' 27, 114 l'oob Prr t/t t.
71,e, 184 "Popeye," 235 l'opn(nr Ct,,,,rr, 28 lark, 16 Yonne, Rld,ard
A.. 228, 233 Premiere, 235 Presley, IlI,,,, 2 P -q, W,tmruo 231 Prima,
l,,. 243 Pointe anal t/,e 13i pee 7hr, 236 pdm Mlnr, 40. 131 I'usn
Mard,ew, 237 Purmao, lobo, 99 Pyle. Frnlr, '2 Quafray, 36 Quern I
liyaheth, 245-246 Qtreer, Mary. 241 Queen Mary, 85 Rafferty, Max, 78
Raider r o/ rho l o,t Ark. 240 Kant;taro-, 2," Random liousc. 242 Raur!\$
133 Ra,,h,d, R.aliry,Shou, 117 Rraderi Dtgeo, 311, 36 Real Food Company,
20' Reagan. Nancy, 245246 Ragan. Ronald, 2, 73, 75, 237, 245 Rral,,, 71q
79, 106 Recd. Ishmael, 247 Rd-q-, , Will62 R,,,h, Charles, 3
"Rcmcmberanccs ..I a Fan Addict 31 Rest...., James, 24 Raunrerinn
ofé'oe, 33 Reynolds, Dchhie, 76 Reynolds, John, 25 Rhine, Joe, 185
Richards. Ted (I,ackg,ound) 4 3, 44-45, 48, 51.52. 53. 54 66, 83, 92,
93, 94, 95. 97. 100. 1 11 114. 116, 12(1121, 125, 133,150,154 155,(phow)
164, (phew) 167, (phmo) 170. 174-175, 185, 188, 190191, 196. 199,
209-211), 214, 222, 223, 235, 253 lo,,hOdd Oil. 77 lla,hi, Rich, 36
lä,kl,,. Don, 128 R,,kover, Admiral I f,n,an, 204 Ridgy. Sam. 80
Riuggcnbcrg, S"C.. 46, 49, 57, 61, 125 Itip OffPre,,, 40, 46, 13(1, 131,
209, 237- 2 Itio,. Itoh. 411 IC,,a, leggy, 40 Road,, David, 21
IL,bhTrlna, 40, 49, 63, 130, 238 Robot S igroaad (rror,p Ltd. at
O'Rr,11,, 184 Itnhcns, Julia, 231 Robe n, K,,,,, 59 Ro>,,, hood, 73
Rarkrr} Bla,r (.odrnllerror #09, The, 105 pocky Mountain Arsenal,` 156 1
,d Bird, 157 Rodriguez, Spain, 40. 129 huger Rabbi, 611, 243 lbogcn,
Roy, 75 IL,han öc Srrp:mian, 93, 94 Rohan. Brian, 186 16 11 g.Srone 41.
44, 115 Rmn,m, Artie, 60 Roosvvel,, I ranklln Delano, 7() Rnsr, Mark,
231 R,nak. ILeodorc, 3 Iiuhin, Jerry, 2. 66 Rauauaiy Braiu, 236 Sabin,
Roger. 27. 28, 130 S;ibot 48 Sa,,,,, Joe, 238 Sad S.,, k, 113 Saga,
Sherman 5 ., 208 S:dcS, Grover, 99, 184 Subshurv, I /artisan L, 3
Samuels, LdwanL 225-226, 253 San Diego Ih222 Sn,, Fmnri,rn flayGr,ardia
1, 115, 156-157. 248 San Frand,ra (prank!, 6, 13-15, 22-25, 49. 50, 107,
108, 120, 184, 215, 216, 231, 244,247,253 San l'rancisu, (bmi, Book
Company, 55, 1 31 S;m Franri,rn (nmtr Book, The, 113 .tar, Frano,,,e
Fsaminrr, 15, 247 S,,n P.anrb-ro l'haeni.r, 129 Sat-day Fvert rg Pmt,
30, 33, 77 Saner y ,V,ghr P;aar, 240 ,San-day Night h,,', 128, 228
Savage, Willian, W., Jr., 30 Sayers, Prances Clark, 78 Sdrerr..01,, -í5
S,,l,kd. RtJurd. -0. "8 S,hulr, Chides. F. 47 S,hustcr, lee, 2930
Seem', 41, 228 S,roggy, David, 254 .Seal ofApprav4 35 Seal,, Bobby. 2.
115 Siartle l.aogh,, 236 Searle I ihc,arínn prom, 44 S,ar,,), Scvcn, 5)
Ni:l

Second Co., 15 Seduction of the In,m,cr,o 33. 3.4 Sep, EC., 46 Seigel, Jerry, 29-30 Sel des, C ílberr. -2 Selz, Peter. 129 Sorh. 238 SeuIing, Phil, 195 Seyerio. John, 31 Son and the Single 11-Year-Old." 32 Seoc and Amour 236 Sgr. Jock and M. Co-' 113 Sgr Pepper. +5 Shakespeare, William. 98 Shaker Shekon, Gilbert. 40, 46, 49, 51, 63, 129, (phoml 165, 209. '3'. 238, 24' Shenkar. Alice. 40 Shenlar. Don. 40 Ship, Reuben. 8- Shock Surpo,Aoríec 31 Shosrak, Linda E., 214-215. 222, 223. 234, 253 Silicon Pally Cuy, 236 Silly Sympathies: 65. 9-. 99. 148-149 "Silly Symphonies," 6S. -1, 83. 99, 184 S,lner Surf r. The, 3- Sim, Dave, 238 Simon & Schuster, 235 Simon. Joe, 3- Simpeerr' The, 20 Sinarra. Frank. -- Sinclair, John, 2 Slndair, Upmn -3 Skar,bea r lq garrne. 210 Skippv" 28 5'ku'l Comas. 63 Sk - River Rock Festival, 43 SLA. 22- Slater, Gail Palmer. 246, Slag Drarh, 63 Smirk, David R.. IOS, 253 Smith, Sidney, 105 Snatch, 129 Snou Whirr, -2 °South, Smith,` 46 Snyder, Cary, 204 Sn Dear , M, Hearn--3 Sodom and Gomorra/, 133, 135 Song of the Sour,. -4 Sonny Bonn Copydghr Exrenrion Ace 86 Sony Music 235 Sourer, David 11 . 232 Spark, Jared. 8(, Spaw 23' Spider-:Flan, 3', 128. 23' Spiegelman, Art, 1311, 206. 24Tk Spillane, ,blickec, 36)P,, and Marry. -5 Splendid Sign, 47, 51-52 Spruce Goose, 241 Spurgeon, Tom, 254 Stack. Frank, 39 Stalin, Joseph. '0 Stan Lee, 36-3- S- Demo; , o. 36 Soar Trek, 45 _Srar W',,, 240 Srar'Reach, 131 Soarrky p Hurd'. 240 Sratieoea Company, 85 Snare of Anne. 85 'Steamboat Willie," '0 Steel, Barnes. 59 Steel, F .m, 191, 194. 198 Steinberg, Saul. 20 Srepanian, Michael. 93, 104. 10'. Ill, 120, 121, 124, photo) 163. 185. 186, 188, 189191.196.199.201.210.214.215, 223. 233, 253 Sreranker, Jim, 28, 3- Sterling, 36 Srerretc Cliff. 114 Saveason, .Adlai, .4 Sreinaa, Bhob, 195 Sronec Chrismpher, 254 Stay eJOaperrnan, The. 195 Smrv, Jas e, 8T Straight Arrow Book, S4 Sub-Manner 311.36 S,,perbe,. 45 Superman. 19, 34. 36. 109, 193 'Soxie Sl-goddess" 39 Sewnk. 235 Swift. Jonathan, 98 .Tailspin Tommy. 28 Talon fron, rbe Cppr, 31 Talk efrbe Tom,,. -- Tattoo,=e. Ten 233p Tares, B Donald, 101 Drum. Frank Donovan, Jr ('Sandy'), 101- 11)'__ Dra, 10-, 119. 120-121. 185, 199, 221, 234. 253 l eleruhbies- '43 Ter, of Ender 240 T/'o haired (2-a0 Theaore Aer. -2 They II Do Ir Every dime 45 Thicrer- Charles, 15, 24 Thimble Theareu" 46 Thomas, Boh.'0. -1, 81 Thompson, Hunter S., 246 Tboe, 3' Those Wonderful Vegetable Beads,- 58 Three Linde Pigs, 9- Three .Lfnn and a Baby, 240 Thrlller. '40 [harbor, James, 98 Tlicrlna. Reyes. 2 Tfor Beanie, 13 T n, 'Ilnol, Comics, 36 3- T)uel Terr in e 186-188. 189. Pl .192, 199. 200. 200. 201, 20_. 11L 21.3.'16_ 21-. 22'. 225, 232, '33 Wender Woman. 30. 34 Wonderman. 109 ü"ongnion. Chdnopher. 231 blond-Xel ,. 31. -9 Woodring-Jiro, 238-239 'h-nedrutr`. Ow-en E.. 188. 189-191, 215. 12' 'h'oods, Jim. 122 XÓrld /a, IL 30. 129 li'ñrW} Grearrrrr Song'. 3- 'h'ounded Knee 11611-, 134 Wylie. l'hllip. 30 ":Ilea. 3'. 23- Yahoo. 131 Yarn r:ralkr, 39 Yellow lad .A-d, I34. 208 Yell ro Kid.'.)hang La-r, 38 Ieang Rmnanrr. 30. 3- Pour Show ofSboae-, 89 l'ourh Ins national Pam.'9 Zahn, Brian, 39 Zap, 38, 39, 40, 129, 130 "ZAR CRASH AND BURN: Underground Comic and the Bay Area. 236 Zeke Wolf. 9-,106.150.154-155.1-4- 1-5 Zippy the Pinherd 129, 238 Z, ig,H. Terry. 40 HI;

INUEX 2 Li,-c Crew; 231-232 10, 000 League, ursdr, the Sea, -3 ASE. 241
ABC. 240, 241. 243 .Abramson, Elliors M., 228 Abzug, Bella- 24 Academy
of Mnrion Fiance Ara, 2 Aa. 36 Amon, 30 Acuff-Rose, 231-'32 Adler,
Charlie, 13 Ads-n, ur , off oo, 39 Adoenrnrer of Obad,,d, Oddbnck, 28
Aerosmssh, 243 Agee, Jam -8 Agnew, Spiro. 114 Air Pharos Fannie,. 49,
51. S'- 59. 62. '9. 9'.98, 100.101.105.10-.119,123. 132, 13--139.
148-152, 155. 190. 193, 214,215.226,233 Air Plaros, vi, -. 43, 50, 53.
55, 6-, -9,83. 8',91-111,113,116,119-121,122. 123. 124, 130, 132-135.
183-194. 195- 196.(98.204,205.20'-208._212.214. 216, 231. 233, 236. 249.
250, 253 ALv41in, 240- 243 .Aldridge. Alan, 28 Alice in WirsdessLand -4
All American Hvmic," 113 All Spades Now, 234 .Alliance Pars, I I5 Aloma
Sue 45 Amburg, Van. 25 American Civil Liherries Union. 35 ,lm ,r Grafra.
American Greerings.38 Amr an Lauorr. 236 American Sd,olna'l American
Zoerropo. 58 .Maheim Angels. 241 Anson Cans' /ndepnrndrrsr, 24-
P.nderson. Aldon, 198 Andcaon. Hans Chdsdan. 238 Anderson, Sheridan, 58
.Amer Nm-elriu. 40. 131, 238 Apple Dump/ing Gang, 131 Aquaman. 36
Aragonos, Sergio. 196, (phom) 1-0 AraAr. 130 Archie, 36 Arkln.,Slan, IS
Arlingmn, Garv, 55, 63. 99, 253 Armoge n Comfier. 59 Arnold, Sranlcigh,
23-24 Arr Dge,r T A, Qean a, Tb,'s Cbme, 231-232 .L N -y an They IYánrsa
Be. 231 A,wdann of Comic slag- Publishers. 3 Aarl. 235 Ada,, 36 Amor,,
The, 36 Audio Highway. 235 "Aura Light" 88 Avalon Ballroom- 116 Avalon.
Frank,, -S Aærsges The. 3- Avon, 36 Baez, loan. 46 Baglev. John. 50, 58.
123 Ballyhoo. '- Bamh,. - Bank of America. Barbarella, 209 Barker.
Marsh, 32 Bark,, Carl. 13. 31 Barnes. Cli,e, 63-64 "Bayne, Google. 2-,
46. 109 Baraa, "Fruckcr lot 59 Barren John- 219 Barrier Michael. 28
Basilan. Bob, 14, 15 Bare,on, Gregor,. '_04 Barman. 30. 34. 36. 23'
Baumgarr.. Ron. 130 Bay Area Bnhrrnu~z 39 Beaus -do,, Bea.-r, 240 Beck.
Joel. 39. 238 Beebe. Lucius, 14 Beerbohm. Roberr L. 28. 134. 219-221.
235, 253 Beetle Bails. 11 3 Brn,y r Lneu l,a. 88-89. 110. I8-. 192, 200
Benin: Jack. 88-89. 199 Boron. Per 254 Berkelry Barb, 39. 41.45. 93
Berkelry Rnveu. 13-14 Berkel) Tesbe, 45-46 Bed,n r. EC Pubbrarrorss. 89,
192. 200, 216 Berman. Shell,, I5 Bcm Boop, 109, 193 B9a,ul rho Gmrn
Door, 133 Biafra, Iello, 106 Big Bad Wolf, 50, 56, 65. 83, 9-. 100. 214
Big Book's Marryrs, 236 Bag }ellauo Drm<'ing Book, 7bc 133 B, ,ks
Brown Mee-, the Haly hirgrn Alan, 38 Blank Elk Speak,. 2 BL,rk Holy The.
239 Black Pannc~r Pars, 12. 185 Blackboard. Bill, 21. 68. 99 Blade 23%
Blass. Valcnrl no and Kline. 21 I `Blndie.` 18 Blood, Sunda,, I IM 5
and R,, 8- " Vaughn. 59.134 Bohemian Club. 24 Bonin.. Peres. IS Bo..-en,
Rebecca. '54 B,'d. Robert, 48. 54.56 Bocingmn. Pappc. 1 I Bradhun. Ras.
36 Bradlee. Ben. lí Brand. Slichelle. 63 Brand. Roger '38 Brand.
Sreuarc. 204-20-.210.211-214, 34-235 53 Brandeis Loafs Demblç 206 Bran
do. ,arlun. 8- Breached. Berkele,. '_42 'Bringlne Up Farher.- d- Brown.
Ch-- 238 Brown. H. Rap. 2 Brown, k- 211 Bro,,ne. Dlk. 208 Brut:, I ono,,
16, 88. 12S "Bucks' Goo, West 151 Bungle Famlh,. The- - Bunk Buford." 2-
Buss,, IFëek. 24_ Ban Ti,, Odd Brdk,rs- Bonk. I i, Caen. Huh. 14. 15.
_'a, I (5 Cae,ar. Sad, 89.]99 Cake and U-Dods. 1 " Cake. Lee. I2'
California Comics. Ill California Insrince for the Arrs. 81 Lämpbdl
v.-kv}JRmr lfuo,. In, _ 231 Campbell. Lusher 231 Ca,off, lilron, _'9,
1(18 Capain America. 31), 36. 3- Caprain and rhr Kid,.Th0, 28 Gaprals

FO. 240 Caprain High.- 39 Caprain Nand, 30. 31 Carmichael, Smkeh.
Carroll, Jon, 99 Car,er. lames M-, 8- Canoon Arr Museum. 236 Camoon
H6-son' ofrhe Onü-arse. 209 Carcoonisd Coop..... Press. 130 Casebeec
Craig H., 20- (7,p, the Frro,dly Gho,r, 36 C r from Decor Sparc. The.
239 C muss' of C.omia, 28 Cenanres, 98 M

Gord,. 3X6,3, l.. 229. 233, 254 G"rhh BG,np)York,, so Corr),ad,on_
Floyd. 3I Gorda,,, Ron. 28 Graham, Billy, 3. 11 Gramm.... h,,rmrre o/ the
6ragG,l, Language- 85 Gop/ro Srer, Won/ad 132 Grarchrl Dead, 114. 120
Grear Sanri,,, 45 Grezn Avow, 30, 1'8 Grzzn lan,,,,. 30, 16, 128 Green,
luxin, 40, 49. 130, 21)9, 238 Greenfidd, !Nark r'zzln., (;arden) 252
Gregor,, Dick. 125 Gregor,. Roherra. 238 G,,8 in. Rick. 49, 5-, 129. 238
G08,6, Bill, 40. 129, 130, 238 Grimm. -8, 238 Grorh, Gar)', 14, I5. 60,
100.254 G-... R,)... 24' Guardian. The, 46 Gog,ara, Ch,, 83 `Gumps. Tha'
IOi H, gar nc, Horrible,- 208 Hag0ard.'lode, 80 llalrbrazrh Han, '8
Hallgrzn. Gan. 43, (background 46--_ 48. 50. 51-52, 53, S-a 66. 83. 92,
93. 94_ 95.') , 99-100. 104, 106, 10-. 113. 114. I16,
1220-1'1,124,133,140-141. 153, 156-15-, rphornl 160, phom) 166, 1-1-1-3
1-6-1-'. 195-196. 2201;, 2 15. "n 2,, ,35.'_46,'53 Halyonik. Paul. 66
Hamm,,, DooR,)), 109 Hampron, Mar:, 2 Band. I varned_ 11)22,110.193
Hanna-Barbera. f / ,A, 1/,,: -5 Harris, Intl C_handl,,, -4 Harris, 'al
Harris, Richard, 215216, 234- 'S3 Haan Kirschner 11.3 Harm. Brzr 98
Hann,, R.C.. 6, 36, 108. 130_'53 Hado, limo,,, 45 Ha,,,,, al Fear. The,
31. 3' Ha,,kman. 30, 36 liaadao hr,, ' Haves. Bill. -4 Ha,zs, Ron'. 238
/fear rbe Saernd a j If, Fer 16,/krng 16 I;gars. William Randrlph I1l,
_'4' Hears. üilliem Randolph. 14 linde. R,hzrr.95 fIell Comic, 61. 64.
61 102. 119 H,mingca,, Ernar. 98 Hendgrwn. Sam, Sar Honda, Errol. 60
H,nkm, Jim, 24' Hemandca. Gilbarc_38 ll,mandez, Ja,ma 'is Harr n. Ge, -
48-49. 114 Higi, Tim _'35. 216 H,ghgradzrs. 13 Hill, 11"h"/en and
farre/L log Hr-,1-1, 'arrn, 'i t ilrmhirn.r. 80 Huron Channel. '41 /3
ion af(+ulr.gound Gunn;,: 54 Hld,r Adolf 6 -0 H,6hs, Da,id. '31 Hoffman.
Ahbia. 1. 66 Hnf}man- Da, id 25-4 Ho,,zr. I Edgar. 21, 108 Hope-. Bob.
114 l ioppc. Arr. I -a- I S, 99, 184 Hoacz Horszcollar. F6-1'- Horm,irc-
John AXgsleç. 248 House Gn-Atnzrian Aori,arics Como,itree llom ro Read
Donald Dug-k, -9. 24_' Hi,-ard the Dack, Hulk. '_3' Hiuo,an larch. 31),
36 Huxlg,. .Adlous. 19 1 Og, 2 llhuamed Stnnn;-Capyr,ghr, 226 Lacredible
Hulk, The. 3- I,,d pende»r Cre, 45 Ingcls. Graham, 31 Luce Fern 18
Irrvasrlgnr,r: Ihz 8- IRA. I1- lan-Con 234 Ira,, .1/a» crj Iro-. Gre,,
'21. 238 m v Li, 215 lr,lmi.1/ee Brbe. 63 Is,, Burl, --i Iwerks, LIb. 6-,
201 /a, -k Benm.Sl,ou, - Jaeksnn, Grnrge-'_5. 44 Jackson, Jack. 39
ladcon, lonarhaa 44 lack,,,, Ailcha,L 2a0 lamzs. I lanrc, '18 G- Sanger
The. 6- Je.-,a Chrisa Supenn,r. 184 Jo, Blo,,. 130 1- I'alooka... 2'
Johus ,. L)ndon, I,Isun~ Al. 6- lo, s. lam s, 89 ludge, Snitr. 59. I 13
Jughead 36 , Kaisar Alun n kamr•n. lack n31 Kauffman, NI-h,. 81) Kazp ,n
Truck,-- 121 Kefau,er. Esrc, 34. 35 Kgkgr,luhn. 211-213, 21-, 223. 234,
253 Kell,. Orr 13. 14 Krll,, ll'alr, 13 Ken l:csa,s'afar,) I'ranksren,
2114 Kzmnzd, & Rhin,, 9_'94 K,nnady, Anrhon,. '_32 K--d, Ed,.ard, '4.
Kcnncd,.Jayuding, -9 knnad,. lofm F. I -9,81
Kg,ned,, 'allchad,65-66,92-94,ln4.ln-. I11,119.121)-121,12 4.lpho,m 162.
185,188, 189-19'. 196, 198-'p1,20- 'I10, 233.'46, 1:1-. 253 Kanned,,
Rnherr.l Ken, ~rare L;n 43 Kara Jar Kgrouac. lack. 1'. 88 K,- K- 93. 2
0, Ke,hola komis:' 9- .ln:, ro rhr Fï,,gdan,, 244 IChrusch,y, Vikira. -6
Kilhr,d. D,clan, 21 Aí,,, ..ERR, COD:1..

Second Co., 15 Seduction of the In,m,cr,o 33. 3.4 Sep, EC., 46 Seigel, Jerry, 29-30 Sel des, C ílberr. -2 Selz, Peter. 129 Sorh. 238 SeuIing, Phil, 195 Seyerio. John, 31 Son and the Single 11-Year-Old." 32 Seoc and Amour 236 Sgr. Jock and M. Co-' 113 Sgr Pepper. +5 Shakespeare, William. 98 Shaker Shekon, Gilbert. 40, 46, 49, 51, 63, 129, (phoml 165, 209. '3'. 238, 24' Shenkar. Alice. 40 Shenlar. Don. 40 Ship, Reuben. 8- Shock Surpo,Aoríec 31 Shosrak, Linda E., 214-215. 222, 223. 234, 253 Silicon Pally Cuy, 236 Silly Sympathies: 65. 9-. 99. 148-149 "Silly Symphonies," 6S. -1, 83. 99, 184 S,lner Surf r. The, 3- Sim, Dave, 238 Simon & Schuster, 235 Simon. Joe, 3- Simpeerr' The, 20 Sinarra. Frank. -- Sinclair, John, 2 Slndair, Upmn -3 Skar,bea r lq garrne. 210 Skippv" 28 5'ku'l Comas. 63 Sk - River Rock Festival, 43 SLA. 22- Slater, Gail Palmer. 246, Slag Drarh, 63 Smirk, David R.. IOS, 253 Smith, Sidney, 105 Snatch, 129 Snou Whirr, -2 °South, Smith,` 46 Snyder, Cary, 204 Sn Dear , M, Hearn--3 Sodom and Gomorra/, 133, 135 Song of the Sour,. -4 Sonny Bonn Copydghr Exrenrion Ace 86 Sony Music 235 Sourer, David 11 . 232 Spark, Jared. 8(, Spaw 23' Spider-:Flan, 3', 128. 23' Spiegelman, Art, 1311, 206. 24Tk Spillane, ,blickec, 36)P,, and Marry. -5 Splendid Sign, 47, 51-52 Spruce Goose, 241 Spurgeon, Tom, 254 Stack. Frank, 39 Stalin, Joseph. '0 Stan Lee, 36-3- S- Demo; , o. 36 Soar Trek, 45 _Srar W',,,, 240 Srar'Reach, 131 Soarrky p Hurd'. 240 Sratieoea Company, 85 Snare of Anne. 85 'Steamboat Willie," '0 Steel, Barnes. 59 Steel, F .m, 191, 194. 198 Steinberg, Saul. 20 Srepanian, Michael. 93, 104. 10'. Ill, 120, 121, 124, photo) 163. 185. 186, 188, 189191.196.199.201.210.214.215, 223. 233, 253 Sreranker, Jim, 28, 3- Sterling, 36 Srerretc Cliff. 114 Saveason, .Adlai, .4 Sreinaa, Bhob, 195 Sronec Chrismpher, 254 Stay eJOaperrnan, The. 195 Smrv, Jas e, 8T Straight Arrow Book, S4 Sub-Manner 311.36 S,,perbe,. 45 Superman. 19, 34. 36. 109, 193 'Soxie S1-goddess" 39 Sewnk. 235 Swift. Jonathan, 98 .Tailspin Tommy. 28 Talon fron, rbe Cppr, 31 Talk efrbe Tom,,. -- Tattoo,=e. Ten 233p Tares, B Donald, 101 Drum. Frank Donovan, Jr ('Sandy'), 101- 11)'__ Dra, 10-, 119. 120-121. 185, 199, 221, 234. 253 l eleruhbies- '43 Ter, of Ender 240 T/'o haired (2-a0 Theaore Aer. -2 They II Do Ir Every dime 45 Thicrer- Charles, 15, 24 Thimble Theareu" 46 Thomas, Boh.'0. -1, 81 Thompson, Hunter S., 246 Tboe, 3' Those Wonderful Vegetable Beads,- 58 Three Linde Pigs, 9- Three .Lfnn and a Baby, 240 Thrlller. '40 [harbor, James, 98 Tlicrlna. Reyes. 2 Tfor Beanie, 13 T n, 'Iilmol, Comics, 36 3- T)uel Terr in e Ht Co,,,,, 63 Tip T p. 28 Ti, G - 38 Todd. Fred, 238 7bdd, Karhe- 253 Tr,dd. Larry. 58. 62, 105. 196, 2_06.111,' S3 Topp, 2116 7orror.rr m,d the H--I, 105-10-- 153-154, 183, 190-191. 215 Jos ni, Arm e. _ lbuehsrone Plcmres,23') Trarhn,an, 38 Tea,, 1,,/crol'I Tr,dàr ll'eddige. 63 hen, 239 T ,,p,, of Cancer. 2 Tmr,and Bonnie,- 106 dkudeau, Garr,, 184 T.,,,, Lana -- Turner, Ron, 40. 41, 53, 59, 61, 63-64.92, 10', 120, 121-125. 130, 184. 238. 253 Ta rad..Madame, -0 Ti' Guide. TWA, '- lei,,, Mark, 23, 104 Tina Feel,,, 209 Tun-Fred Tale,. 31 Undo Remus. -4 Uncle Sooege 45. A5, 233 Underground Arc 52 underground -mix (history of), 39-42 Underground Press Syndirare. 246 U,udenrlfed Flying Oddba/Li 131 L rued Feamrcs, 28, 36 Upham. Rey. Chad,, W., 86 Van Doren, Mark, -2 '-,,k. Ms., 184 15,ierv. 20- K,rnG nfHorrar, 31 'er mr. Carol. 253 I írnm-

through Air Pou-ern iernam, 211 iernam, 5, I-, 2. 4'. 113, 12'. 130
S'en I leifman, Nicholas. 184 C'alker. forr. 2_'1 11"aí! Srrcer /on „al
235 If„/1 Sorer /onr,ral 41 X'allace. DeWin_ 36 Wallace. George, 108
"Walt Done,' Memorial Orgy: -9-80 Wald D,rney Prcrenrr. -4 n'9/, Danes
Produmm,s v. 76e lie Pinner. 80- 8",91-111.119-121,183-194,198-202,
20'-_21'.225.22-8.229,231, '32.235 Walt D,rney Prods, non., e. AL.,
Pan,re., Co p ., 228 'h'ail[Diane, Producrloas- vi. 5. 6. 25, 31, 36,
46, 49, SO. 51, 5 59, 60, 61, 65- 6', T4-A2. 83. 8', 911 I1, 11.5- 116,
119, 130, 131, 134. 183-194_ 198-20' 2. 2G3.2ù4, 205-20-, 211-214,
220-223. 216, 232,239-245.248,253 Wair D&nevi Cmnia and Seerirr. 29, 34,
45. 50, 109. 233 lEs/e Disney, n'ánrf rfu/Beck/of (olo, -4 War :Vent.
The, 24' Ware, Chris, 238 lKñr,er Brorber, P,mver v. Cobnnbia
Broadeavrng Barra, 109. 110, 193.200 Warner Brothers, 109 'h'arren,
Earl. 5. 211 lrur-IV'//,oop and Banc Cn. 48 llädw,rgrer, Pon. 6
X'ashingmn. George, 86 O'auennan. John, I84 ll'arergarc 108 'h'ain
Srecen, - "9 'h'ough, Coulmn. '8, 29 'h'avoc. John. 133 Weathermen, 6'_
'Bober. Richard, 254 A'ebser Noah. 85 'hSi e ,, Cor S9 lGird Fani,e,i
3lr` ücird Silence 31 Well. The, 234 'h'errham. F-redd,k, 33-36 ll"e ,
'lagaz,ne. 99 ü'rstern Publirar,ens. 13 X'heeler-Nichlnson, Malcolm.. 28
Ilbo, a,llan Lone,' e 113/,ma 136 SS hire Pannc~rs, 2 U"h,re, EB., 98
'h'hltre.'led, 36, 195 Uhuman. Wale 13, 98 llbo Centered R,ger Rrbbie 106
non, Fieored Rog,, Rabbis 106 lYGoí Afraid o/'Kirginia Ilù/e. 242 IK'boi
11?ba ,n Amens, '0 lK'ço_, lK',o ,n X-Bored F,ln,r. 135 l/Oe/e Earth C
slog 204 I/ hol For Year OldHipp,e Caraleg, 209 'hilt, Bobby Seale 1s
tier Black: 11.5 ü'h,oe. Malcolm. 2.54 YSlidenberg. Ham. 25. 28
X'illiams. hfardn. 28 Will-- Robert, 122 238 W',lliams. R,,bin. 243
X'illianu.. Rev, 'Ti U'illiamson, AI- 3I X'ilson, S. Cla,', 16. 40.49.
52, 129, 130. 238 h'innie the ß-h, 243 4rard of Id The.- 1- 'h'ulf. Gary
K.. 106. 243 'h'ulfe. lóm. 2(14 'h'ollenhere, Alherr C. 5-6, 16, 94, 96,
9'. 103-104, 105, 10--III, 119, 120, 114. 12_5.183.184 186-188. 189. Pl
.192, 199. 200. 200. 201, 20_. 11L 21.3.'16_ 21-. 22'. 225, 232, '33
Wender Woman. 30. 34 Wonderman. 109 ü"ongnion. Chdnopher. 231 blond- Xel
,. 31. -9 Woodring-Jiro, 238-239 'h-nedrutr`. Ow-en E.. 188. 189-191,
2I5. 12' 'h'oods, Jim. 122 XÓrld /a, IL 30. 129 li'ñrW} Grearrrr Song'.
3- 'h'ounded Knee 11611-, 134 Wylie. l'hllip. 30 ":Ilea. 3'. 23- Yahoo.
131 Yarn r:ralkr, 39 Yellow lad .A-d, I34. 208 Yell ro Kid.'.)hang
La-r, 38 Ieang Rmnanrr. 30. 3- Pour Show ofSboae-, 89 l'ourh Ins
national Pam.'9 Zahn, Brian, 39 Zap, 38, 39, 40, 129, 130 "ZAR CRASH AND
BURN: Underground Comic and the Bay Area. 236 Zeke Wolf.
9-,106.150.154-155.1-4- 1-5 Zippy the Pinherd 129, 238 Z, ig,H. Terry.
40 HI;

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N MEMUHIAM While this work was in progress, my friend, Mark Greenfield, died of infections secondary to intravenous drug use. He appeared regularly in my work as "Max Garden." Even unnamed, he was present. (Of the aforementioned Best Ride, he once said, accurately, "I drove.") Mark was really really good at being bad with. Being bad, I think, is an important part of childhood and adolescence. It is not so important in an adult, a judgment Mark may have disagreed with but did not hold against me. I - and my work - will miss him. rir

~IXNHW[11111MKS This book could not have been written without the cooperation of Dan O'Neill. He gave openly and generously of his time, his past, his charm, his scars, his vision, his trust. It has been my good fortune to have been permitted to recount his story. Similarly, this book could not have obtained what quality it managed without the other Air Pirates. Shary Flenniken, Gary Hallgren, Bobby London, and Ted Richards freely shared recollections and reflections, anecdotes and analyses, infused with wit, intelligence, and inspiring personal style. It was a delight to portray people who brought so much to the portraying. I am equally grateful to the attorneys who represented Walt Disney Productions and the Air Pirates for open-heartedly taking time from their present practices to candidly answer queries about this long passed, loopy by-way, in their careers' paths. Michael Kennedy, Michael Stepanian, David Phillips, John Laveroni, Sandy Tatum, George Gilmour, Kirk McKenzie, John Kecker, Richard Harris, Linda Shostak, Lawrence Klein, and Lloyd Crenna were patient, courteous, more than professional - and often delightful - in suffering the pestering of my exuberance. Gary Arlington, Bob Beerbohm, Stewart Brand, Paul Krassner, Bud Plant, David Smith, Kathe Todd, Larry Todd, and Ron Turner added color, depth, flavor, and spice to my narrative. Don Donahue's knowledge - and his collection of underground comics - was indispensable. R.C. Harvey and Mark Koenig filled gaps in my record without making me feel too much the fool. Stuart Dodds pulled a treasure trove of files from his garage - and Carl Nolte and Carol Vernier chipped in valuable facts and recollections - concerning O'Neill's Chronicle years. Edward Samuels helped orient me amidst the whirlpools, reefs, and shoals 111

of copyright law. Wendy Gordon was especially good-hearted and bolstering in assisting me to keep my craft afloat as I tacked through murky waters. Richard Milner fueled me, not only with his enthusiasm for the Pirates and the times - but with priceless material from his collected papers. Bruce Chrislip, Sam Henderson, Lee Nordling, David Scroggy, and Christopher Stoner graciously opened up other storage boxes and memory banks. Peter Beren's enthusiasm made me believe this book could happen. Malcolm Whyte's address book helped get me started. Richard Weber's example kept me kicking on doors. Michael Lydon braced me with doses of much-needed journalistic rigor. David Hoffman delivered clutch insights - when he wasn't trying to get me to write more about West Philly. Danny and Noah Levin, in their only plate appearance, knocked it out of the park. Rebecca Bowen proofread her way through misspellings, sentence snarls, and punctuation abominations that would have driven lesser mortals over the brink. Tom Spurgeon's belief in my work, during his years as The Comics journals managing editor, emboldened my efforts. His help in getting this manuscript shaped and formed was immense. Kim Thompson scoured the globe to correct factual errors only a polymath would have been concerned by in the first place. Patrick Rosenkranz and Eric Sack, historian and philanthropic art collector respectively, graciously contributed to the art section of the book. And Gary Groth has been as courageous and supportive a publisher as any writer could wish. It has been a privilege to work with these people. I've made clear, I hope, how much Adele means to me; but I want to say it again. Every day, I give thanks. 2:i

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fare drew upon those values - patriotism and puritanism, consumerism and conformity - that the cultural revolution had called into question and simultaneously fed them back to a needing-to-be-reassured public, bringing it 5750,000,000 a year. On the other side was the defendant. The malfasant. The willful violator of the injunction he, Judge Wollenberg, had granted and the Court of Appeal and Supreme Court had sustained. Whose career's trajectory, though tracking the direct opposite of Disney's stratospheric ascent, was, in its commitment to a free-spirited, convention-defying, bluenose-shocking, light-out-for-the-territory view of the personal and public good, just as resolutely mythic-American. In 1963, the San Francisco Chronicle had made Dan O'Neill, a skinny, bespectacled, twenty-one-year-old college dropout - five colleges by his own count - the youngest syndicated cartoonist in American newspaper history.' Within a few months, his strip, "Odd Bodkins," whose quirky humor, philosophical joustings, and positions on political and social issues would make it unlike anything on a mainstream comics page before or since, was in forty papers, including the Chicago Daily News, the Los Angeles Times, and the Washington Post; and he had been the subject of a feature article in Newsweek and lauded as the voice of "the post-'Peanuts' generation.'" Within a few years after that, his provocations had caused almost every paper to drop him and the Chron to fire him for a second, third or fourth - accounts vary - and apparently final time. O'Neill had drawn from this experience the lesson that what America truly needed was the destruction of Walt Disney. Taking this mission upon himself, . . . ; "ls _rr-v - rte. . . - . . . 4, . . . , ~ . _ _ _ ^ ~ . ~ , ^ - ^ . . . - ' " - tom _ ` . . i '. ^ _ . ' The source of this distinction is O'Neill. However, since the very first information he provided me, that the day following his birth, on April 21, 1942, Hitler invaded Russia ('l showed up and fascism lost the war") could be disproved through research requiring no more than one arm's reach across my desk ("Early in the morning of June 22. 1941, German forces struck across the border of the Soviet Union... Gerhard L. Weinberg. A R'lorld at Arms), I learned - and now warn all who press on not to lean too heavily upon his allegations for support. He is a man unhobbled by factual restraints when a touch of moon-dust will enliven life's dance. He is a story-teller in its most noble of manifestations, relating to the world through re-worked lines and remodeled anecdotes, more devoted to achieving the most affecting of tellings than the exactly replicated, always less satisfying what-was. To quote his attorney in the above proceeding, "You don't talk to Dan if what you're interested in is some Kantean discourse addressing the abstract nature of truth. He's Irish." It is surprising how often this explanation, uttered by others, surfaces to account for some quirk in O'Neill and, uttered by him, characters within his work. That disclaimer expressed, now let me say that R.C. Harvey, the estimable comic historian. who has researched the subject, says, "The Youngest I could find was nvenn°-three, twenty-four or twenty-five, so he might be." ' At its peak. O'Neill says, "Odd Bodkins" was in 375 papers, whose combined circulation of 55,000,000 earned him \$5000 a week. I have confirmation

it was in 75-to-100. with a circulation of 20,000,000 - which still isn't boiled potatoes - and he was earning not quite one-tenth that.

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of copyright law. Wendy Gordon was especially good-hearted and bolstering in assisting me to keep my craft afloat as I tacked through murky waters. Richard Milner fueled me, not only with his enthusiasm for the Pirates and the times - but with priceless material from his collected papers. Bruce Chrislip, Sam Henderson, Lee Nordling, David Scroggy, and Christopher Stoner graciously opened up other storage boxes and memory banks. Peter Beren's enthusiasm made me believe this book could happen. Malcolm Whyte's address book helped get me started. Richard Weber's example kept me kicking on doors. Michael Lydon braced me with doses of much-needed journalistic rigor. David Hoffman delivered clutch insights - when he wasn't trying to get me to write more about West Philly. Danny and Noah Levin, in their only plate appearance, knocked it out of the park. Rebecca Bowen proofread her way through misspellings, sentence snarls, and punctuation abominations that would have driven lesser mortals over the brink. Tom Spurgeon's belief in my work, during his years as The Comics journals managing editor, emboldened my efforts. His help in getting this manuscript shaped and formed was immense. Kim Thompson scoured the globe to correct factual errors only a polymath would have been concerned by in the first place. Patrick Rosenkranz and Eric Sack, historian and philanthropic art collector respectively, graciously contributed to the art section of the book. And Gary Groth has been as courageous and supportive a publisher as any writer could wish. It has been a privilege to work with these people. I've made clear, I hope, how much Adele means to me; but I want to say it again. Every day, I give thanks. 2:i4

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~IXNHW[11111MKS This book could not have been written without the cooperation of Dan O'Neill. He gave openly and generously of his time, his past, his charm, his scars, his vision, his trust. It has been my good fortune to have been permitted to recount his story. Similarly, this book could not have obtained what quality it managed without the other Air Pirates. Shary Flenniken, Gary Hallgren, Bobby London, and Ted Richards freely shared recollections and reflections, anecdotes and analyses, infused with wit, intelligence, and inspiring personal style. It was a delight to portray people who brought so much to the portraying. I am equally grateful to the attorneys who represented Walt Disney Productions and the Air Pirates for open-heartedly taking time from their present practices to candidly answer queries about this long passed, loopy by-way, in their careers' paths. Michael Kennedy, Michael Stepanian, David Phillips, John Laveroni, Sandy Tatum, George Gilmour, Kirk McKenzie, John Kecker, Richard Harris, Linda Shostak, Lawrence Klein, and Lloyd Crenna were patient, courteous, more than professional - and often delightful - in suffering the pestering of my exuberance. Gary Arlington, Bob Beerbohm, Stewart Brand, Paul Krassner, Bud Plant, David Smith, Kathe Todd, Larry Todd, and Ron Turner added color, depth, flavor, and spice to my narrative. Don Donahue's knowledge - and his collection of underground comics - was indispensable. R.C. Harvey and Mark Koenig filled gaps in my record without making me feel too much the fool. Stuart Dodds pulled a treasure trove of files from his garage - and Carl Nolte and Carol Vernier chipped in valuable facts and recollections - concerning O'Neill's Chronicle years. Edward Samuels helped orient me amidst the whirlpools, reefs, and shoals 1113

Estren, Mark James. A History of Underground Comics. Ronin Publishing. 1987 ed. Feiffer, Jules. The Great Comic Book Heroes. Dial Press. 1977 ed. Flower, Joe. Prince of the Magic Kingdom: Michael Eisner and the steadily expanding realm of wonders, has been stymied by the part of it that demands it glut itself on profits. (Kim Masters, in Keys to the Kingdom, damningly summons up the following Eisner quote: "We have no obligation to make history... to make art... to make a statement. To make money is our only objective.") "' These wonders may have been limited in scope, but they were true wonders, marvelous and, on occasion, inspiring; and if you remain in pursuit of wonders, who knows where you may get to. If your pursuit is of profits, you get to banks, to fancier boardrooms, to showrooms that sell yachts." ' In one sense, yeah, this squares with what seems to power this country. But in another, one suspects (or hopes or wishes) that while this drive (this greed, it could be called, this hyena-avarice) is met with "You-go-gal!"s, at the same time, there remains a lingering, subliminal shame, a repulsion, a wish of "There-must- be-more-than-this" that withholds the widespread celebration of the Disney company that once fell upon it, warm and constant, like Miami rain." ' " ' Oops! News has just reached me that, in 1986, Eisner, slimmed down, stylishly clothed, and voice coach-tutored, hosted Disney's return to Sunday night television. Obviously, this made little impression on your local correspondent, but if his appearances imprinted themselves regalb' upon any of you, I am taking names with which to correct nrv next edition. (I might add, though, when I concluded the polling of my nephews, "And what do you think of Michael Eisner?" they answered, "Who's the?") "' This policy has worked so well that, in 199", not counting any paper clips he may have filched from the supply cabinet, Eisner brought home 85'Q000,000. (In the interests of fairness and full disclosure, nrv campaign adviser, Robert the K, has pros ailed upon nh(! to reveal I did not,) "' If you find yourself reacting, "Hey, that sounds good to me," you may not be my ideal reader. "' In the mid-1990s, an otherwise unidentified New Mouse Liberation Front issued a new comic. Air Pirates, in a "Special Pirate Edition." Denying am' affiliation with the original Air Pirates but claiming inspiration from "the importance and rarity of [their] original defiant gesture," it reprinted the two Mouse stories from Air Pirates Fvrnies, along with a brief summary of the case. To this "ges- ture," the New MLF added its own four-pager. That story opens with Mickey dearly recogniza- ble, masked by no stubble behind a desk, fuming about "fucking Democrats" revising the tax code and the cost of keeping "that old popsicle cryogenically prescr'ed. When his secretary. Clarabelle Cow• enters, he exposes himself and demands she relieve his stress by "chew[ing] on something besides your cud." When a man who has tattooed his likeness on his chest is hauled before him, Mickey wields a sword and claims "my cut" for this infringement. To complaints about company trade policies and environmental abuses, he responds, "I am Mickey Mouse and I AM the AMERICAN DREAM!! It's simple... I got mine... FUCK YOU!" 1 N11

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their discrepancies could fund nuclear submarines. The FBI, through a sinister program no one had ever heard of, COINTELPRO, were bugging the same folks' walls, tapping their phones, and infiltrating their membership with spies and provocateurs. Transmission towers exploded and banks incinerated. Planes were hijacked, one a week; and people fled to Canada and Sweden, Cuba and Kathmandu. Timothy Leary got ten years for smuggling a couple ounces of pot across the border in his daughter's underwear. The White Panthers' John Sinclair got the same for giving two joints to an undercover agent. H. Rap Brown and Stokely Carmichael and Eldridge Cleaver and Angela Davis and Torn Hayden and Abbie Hoffman and Jerry Rubin and Bobby Seale and Afeni Shakur (Tupac's mother) and Reyes Tijerina were on trial for, if not their lives, substantial portions of them - and Mark Hampton and Fred Clark were executed in their beds. The U.S. military and local law enforcement agencies incarcerated demonstrators by the football stadium-full or clubbed or gunned them down on campus commons and sprayed the survivors with tear gas from assault helicopters, while the current president, Richard Nixon, vilified those left penned, bleeding, weeping, as "bums," and a future one, Ronald Reagan, led cheers for a greater "bloodbath." A cultural war raged just as wildly as this political one. The dominant ethos of the country, which that had been ratcheted into place throughout the 1950s and early '60s, was one of muted consensus and polite conformity. (Father, we were reminded weekly in prime time, knows Best.) Loyalty oaths, school prayers, and pledges of allegiance were mandatory, if you did not want to be spanked. The banning of Lade Charterley' Lover and Tropic of Cancer (two percent of what were later judged the Best English Language Novels of the century), Elvis Presley not being televised below the waist, Ozzie and Harriet sleeping in separate beds, and there not being a bare nipple to be seen in Hollywood (or a pubic hair in Playboy) made perfect sense; to believe otherwise was to enter upon a path at whose end madness lay. It was the heyday of well-rounded, well-adjusted, crew-cut fraternity boys in penny loafers and crisply-pressed khakis, and virginal, every-hair-in-place sorority girls in saddle shoes and camel's hair coats, pairing off with mirror-image, suburban neighbors, in mirror-image suburban neighborhoods, to achieve two-car, two-point-five-kid-centered familial stability and community admiration. Financial security was the aim and deviance to be crushed like Japanese beetles on the roses. The new nation came wild-haired, hare-footed, costumed as frontiersmen and buccaneers, Renaissance princesses and fairy sprites. It cavorted in the nude. It replaced keg parties, backyard barbecues. and the cocktail hour with marijuana, LSD, methedrine, laughing gas, mescaline, magic mushrooms, opium, STP, and anything it could find in the medicine cabinet. It had its own bone-jarring, head-rattling music, augmented by light shows that rewired any senses the music and drugs had missed. It had its own sacred texts - The I ('ping, Black Elk Speaks - never before seen in any Sunday school in Scarsdale or New Trier; its own dietary musts (who had ever before even contemplated wrapping their

tongue around tofu?); its own "far out," "mind-blowing," "mellow" language. "Come together," it sang. Pick up the "good vibrations." "Wear," it pains me to remember, "flowers in your hair." It lived on over 2000 rural communes and it operated over 5000 cheese-selling, baguette-vending, taxi-driving urban collectives. And it took to sex like it was grabbing M&M's from a bowl. Each of these dislodgments was met by the prevailing-standards bearers as if not only the country was at stake but all of western civilization. Resistance was a must - or lions would be feeding on Billy Graham at half-time of the Rose Bowl while the rest of us burned. The young people at the center of this struggle were either one of the noblest, most courageous, most morally committed generations in our nation's history, clear-sighted harbingers of a new civilization that would, in the judgment of one social analyst (Theodore Roszak), save us from "the final consolidation of a technocratic totalitarianism" and bring about, in that of another (Charles Reich), "a higher reason, a more human community, and a new and liberated individual... a renewed relationship of man to himself, to other men, to society, to nature and to the land"; or they were a pack of unkempt, foul-smelling, disruptive, obscene, vicious, self-indulgent, spoiled brats who needed to be taught the most serious of lessons (A Majority of Everybody Else). "For the first time since 1776," Harrison E. Salisbury, editor of the Op-Ed page of the New York Times, summarized, "the true and authentic voice of revolution was raised in the U.S.A." Before this voice was stilled, our society would be transformed. And one of the most inflammatory incitements within this revolt would be a comic book.

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NI131111111, '1111N. J111 VOICE HF IIEVUI_UTIUN RAISELI On February 15, 2001, a three-judge panel of the United States Court of Appeals for the Ninth Circuit unanimously affirmed a lower court's decision to deny the toy manufacturer Mattel, Inc.'s motion for an injunction to prevent the photographer Tom Forsythe from fulfilling his artistic vision through the placement of its Barbie dolls in sexually explicit positions in order "to critique the materialistic and gender-oppressive values" he believed they represented. Bob Dylan had been right. The times, they were a-changing. But this one had taken over thirty years. In the first days of the 1970s, America had seemed ready to tear itself apart. The smoke from inner-city riots still seared nostrils and stung eyes. The tears shed at the funerals of JFK and Malcolm and Martin and Bobby had not dried. The heady, bonding optimism that the early gains of the civil rights movement had inspired had been corroded by unfulfilled promises and unrealized dreams into rage and threats and plans to blow up the Statue of Liberty. The expanding war in southeast Asia was a meat grinder, shredding connections and civilities, splattering the walls with the blood of parents set against children, hard-hats against freaks, hawks against doves. It was a time for the well-considered fire-bombing of judges' homes and liquor-fueled vigilante raids on communes. For armed assaults on courthouses and vandalizing of alternative newspapers. The ambush of policemen on patrol and the brutalizing of hippies passing through town. Deans' offices were trashed by Phi Beta Kappa undergraduates and RO"I'C buildings and Defense Department research facilities bombed by doctoral candidates taking a break from their dissertations. Selective Service offices were at the mercy of bands of marauding nuns. The IRS was scrutinizing the accounts of leftist groups as if

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They fought the Mouse and the Mouse won... but at what price victory? The first comprehensive book about the most celebrated and misunderstood First Amendment controversy of the late 20th Century, *The Pirate and the Mouse: Disney's War Against the Counterculture* chronicles the ground breaking litigation between the Disney entertainment empire and a group of rag-tag underground cartoonists who called themselves the Air Pirates. In the late 1960s, the Walt Disney Company dominated the pop culture landscape. A group of talented underground comic cartoonists decided that the culture's salvation required the destruction of Walt Disney; to that end, they proceeded to publish a series of quasi-pornographic, satirical comic books starring the company's most famous characters. Disney sued, and the resulting litigation marked forever the significant and impassable boundaries that divide two different, competing visions of America. Illustrated with extremely rare examples of the Air Pirates' satirical takes on Mickey Mouse, et al., Bob Levin's heartbreaking trip through an amazing time and place in recent U.S. history delves into the outsized personalities, dissects the legal issues, and critically confronts the works of art at the heart of the fabled Air Pirates controversy. "The definitive history of this wonderful, mad (and, I believe, significant) episode in American popular culture." - Richard Milner, Senior Editor at *Natural History* magazine FANTAGRAPHICS : • •

During a time of unprecedented political and social upheaval in U.S. history, one of the fiercest battles was ignited by a comic book. Such is the legacy of the Air Pirates, a group of underground cartoonists who brought upon themselves the full wrath of the Disney entertainment empire at the apex of its cultural influence. In 1963, the San Francisco Chronicle made 21-year-old Dan O'Neill the youngest syndicated cartoonist in American newspaper history. As O'Neill delved deeper into the emerging counterculture, his strip Odd Bodkins became more and more provocative, until the Chronicle let him go. The lesson that O'Neill drew from the experience? That what America needed most was the destruction of Walt Disney. O'Neill assembled a band of rogue cartoonists, called the Air Pirates after a group of villains who had bedeviled Mickey Mouse in his syndicated newspaper strip. They lived communally in a San Francisco warehouse owned by Francis Ford Coppola and put out a comic book, Air Pirates Funnies, which featured Disney characters participating in very un-Disneylike behavior. This provoked a mammoth lawsuit for copyright and trademark infringement, Disney represented by one of San Francisco's top corporate law firms and the Pirates by the cream of the counterculture bar. The litigation raged for 10 years, from the trial court to the U.S. Supreme Court and back again - changing lives, setting legal precedent, and making clear the boundaries in a still-going cultural war. The novelist and essayist Bob Levin recounts this rollicking saga with humor, wit, intelligence, and skill, bringing alive the times, the issues, the absurdities, the personalities, the changes wrought within them and us all. Dan O'Neill at the AX'alt Di,, v audio,, 19'9. l'h,o, k In, AI

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