Title
The Common Law of Pauley Pavilion: Property in Public Places

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You might call this a "participant-observer study"---but it did not start out that way. After Pauley Pavilion (a.k.a., "The Teapot Dome") opened in the early 1960’s, folks were allowed to use the courts for pick-up basketball games. I began to skip lunch in the Faculty Center and get some exercise in hopes of shedding some post-tenure fat I had accumulated.

Pick-up basketball games face two inter-related problems: (1) how to allocate space-time on the courts; and (2) how to deal with the absence of referees. At Pauley, an elaborate set of rules emerged.

**Allocation of space-time**

The first group to reach the court could play the first game against the second team to arrive. Of course, players arrived as individuals, not teams. So the first player to arrive got to play the first game. The next person to arrive joined the team of the first person, but if he did not wish to join that team but to form his own, he could simply call out "winners." He could then choose either to play against the first person's team or play the next game.

Unless not enough people showed up, teams had to have four members. If a team had less than four, they had to have the next two people to show up on their team. Teams seldom had five players because it made the court too crowded for a half-court game. (Teams were not allowed to play full court because this deprived to other teams of the chance to play.)

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1 When first presented to the UCLAW faculty, the subtitle was "Rule-making in Informal Social Groups." The one above reflects a more mature view of the subject matter.

2 Professor of Law (Emeritus), UCLA Law School.

3 With the bleachers rolled back, there were four additional half-courts alongside the main court.

4 By "pick-up", I mean games played on public basketball courts that are not scheduled or overseen by some superior authority. This means that games played on my driveway basket or intramural basketball games at Pauley Pavilion are not "pick-up" games.

5 I use the male pronoun deliberately; during the time of this study, women did not play pick-up games at Pauley.

6 Where no other team was available, the custom required that the second person's team provide the opposition.
The person who called "winners" got to pick the players for his team from the other players waiting to play unless less than four players were waiting; then those waiting were automatically on his team. If there were not enough players waiting, then the person with "winners" could've pick any one from the team that lost the previous game.

Games were limited to 21 points, meaning 11 baskets if no free throws were made. Unlike ordinary basketball where the teams trade turns to score, the Pauley rules used "winners outs"; that is, the team that had just scored got to take the ball out again. This rule probably developed as an efficient way to get poorer teams quickly off the court.

**Officiating**

When a ball went out of bounds or a player claimed he had been fouled, frequently the other team or player would agree and the game would proceed. However, if the other player disagreed about a foul call, he would call out "shoot for it!" The player who called "foul" would step to the free-throw line and take a shot. If he made it, this vindicated his foul claim and his team got a point. But if he missed, then he was wrong about the call and the opposing team got the ball out of bounds.

**The Rules in Action**

I first became of the power of the Common Law Pauley Pavilion one summer afternoon. The second semester had ended and the summer session had not begun. Since so few students remained on campus, a group of Pauley regulars had the only game going on one of the side courts. As we reached the end of one game, we looked at the clock and saw we only had time for one more game before we all had to get back to work.

Just then a teen-ager approached the court and called "winners." We nodded and as he dribbled away we could tell that whichever team that got him was getting a "loser." When he got out of earshot, someone whispered: "Look---he doesn't know what the score is. We can play another game without telling him." When one of the teams reached 21, they tossed the ball in to start another game. Then the player who had suggested this play, looked at the other players. Everyone shook their head so he turned and called to the "loser"---"your game.

We were not the only players who felt allegiance to the Pauley rules. I once watched a rag-tag group of faculty and students beat a group of second-stringers from

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7 The ball was thrown in from the half-court line; except when the ball went out of bounds during play; then the rules of regular basket ball prevailed and the ball was thrown in from the point where it went out.

8 From the fact that when he dribbled, he slapped down on the top of the ball rather then letting it come into his palm and pushing it down.
one one of John Wooden's championship teams; they grumbled about it---but left the court and waited their turn to play again. Similarly a group of former Wooden players and sports officials who played every noon would let others claim the court at the far end of Pauley where they usually played. So too with professional basketball players who sometimes showed up in the summer.

The Pauley rules carried over to other campus venues. For example, one summer when the floor in Pauley was being re-surfaced, we had to play in the courts upstairs in the men's gymnasium. Even Sven Nater, the second string center who went on to a brief professional basketball career, took his turn. As it happens, this is where my basketball playing days ended.

Though not exactly a rule, I glimpsed an ethos of aiding others to play in the actions of two varsity players: Henry Bobby and Bill Walton.

Early on Sunday morning, six of us played 3-on-3 on a side court while Henry Bibby practiced his shooting on the main court. When a seventh player appeared, he asked Henry to join us, which he (reluctantly) did. He had barely begun when from up in the rafters we heard a familiar voice utter a single word: "Henry." Uttering under his breath "Coach doesn't want us to play pick-up games during the season, Henry went back to his practice.

In the second instance, this time in a crowded gym, we were playing another three-on-three game when another student approached, asking if he could join us. "Sure," we told him, "if you can find someone else to make it four-on-four." He returned a few moments later with Bill Walton. To avoid tipping the scales too much, Walton restricted his play to passing the ball until another player took his place.

**The Rules Break Down**

The Pauley rules most often failed when the number of Pauley regulars got swamped by outsiders. For example, during the summer UCLA used to rent out the dormitories (a.k.a., "the residence halls") to outside groups such as fast-buck artist who ran "band camps" to high school musicians hoping to improve their skills. These visitors got access to the athletic facilities, including Pauley. These folks sometimes just ignored the rules and simply stayed on the court until they got tired of playing.

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9 Including two players whose names were "Donnie Safer" and "Neville Saner."

10 These included Gary Cunningham, who would later go on to coach the Bruins and after that the Athletic Director at Fresno State, Joey (I don't remember his last name), a photographer with The Athletic Department, and Jimmy (ditto) who ran the intramural programs.

11 Two regulars were Los Angeles Laker players Pat Riley and Jimmy Washington.

12 We later saw that Walton had been on another court coaching a group of friends who had formed an intramural team.
Sometimes individuals tried to break down the rules by simply refusing to obey them. For example, one Pauley regular (who will meet again) simply refused to obey the rules. On one memorable occasion he claimed the ball went out of bounds off me when he clearly touched it last. I challenged him to “shoot for it.” “No way,” he declared as he stepped out of bounds with the ball and prepared to throw it in. When others protested, demanding that he shoot for it, he replied “play ball” and tossed it in to a team mate. That worthy immediately launched a shot that went 10 feet above the backboard and out of bounds so our team got to inbound it.

Analysis

How can we best understand the Pauley system? When I presented the rules to our faculty over 40 years ago, my late colleague James Liebeler suggested economic analysis was the way to go. He wanted to explain the collapse of the rules as a result of increased scarcity, which he argued raised the cost of compliance to high. Perhaps I did not understand economic analysis but I found this unpersuasive.

As the title suggests, I was more drawn to the literature on property interests in public places. But on reflection, I think a better analysis suggests that the players had a property interest in the game.

The player I mentioned before who refused to follow the rules provides a dramatic example. After putting up with his shenanigans for months, the Pauley regulars devised another solution. Whenever he had the right to the next game, all the players would simply disband the game by walking off the court and joining the game in progress on a different court. After several weeks of this, the fellow stopped showing up at Pauley.

Consider, too, a solitary player on an otherwise vacant court. He gets no property interest in that court; if others come who want to play, he must vacate the court. But he does have a priority property right in their game should he choose to exercise it.

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13 It seemed to me that increased scarcity also increased the value of the benefits of complying with the rules.

14 I assume he want elsewhere on campus such as the outdoor courts or upstairs in the men's gym.