30 Oakland Te Tribune Wed., March 11, 1970

# Long Hair Loses in Court

School athletic coaches have the prerogative to drop team members who won't cut their hair, a U.S. district judge ruled yesterday in San Francisco.

This decision was reached by Judge George B. Harris in response to a suit filed by four cross-country runners on the Redwood High School track team in Marin County.

The four youths - who were each asking for \$15,000 damages along with their request for a court injunction against Tamalpais School District rules governing the length of athletes' hair - contended that restrictions on hair length were unconstitutional.

But Harris rejected the argument that any basic freedoms were denied. His reasoning was that short hair is not required of all students, but only of athletes, and that if individuals don't want to participate on teams, they don't have to cut their hair.

"The alternatives," Harris said, "are either to forego (participation on inter-school teams) or to trim their hair above the collar and around the ears for a few months during the particular athletic season."

Harris said that the court record was "barren" of any

trict's rules on hair-length for athletes had been formulated by "arbitrary or capricious" means.

He added his opinion that the rules did not "represent unbridled sanction of a committee seeking to impose discipline for the sake of discipline and conformity alone."

The judge said he was influenced by "convincing" testimony from coaches that athletic programs provide "a unique form for development of discipline, individual sacrifice and teamwork not available in other school programs."

The coaches reported that control over hair length was a "legitimate" and useful meth-od for building discipline and morale on their teams, he said.

"In these perilous, troubled times when discipline in certain quarters appears to be an ugly word, it should not be considered unreasonable, nor regarded as an impingement of constitutional prerogatives, to require the plaintiffs to bring themselves within the spirit, purpose and intend-ments of the questioned rules," Harris said.

The decision had the effect of immediately lifting the

indication that the school dis-/ temporary restraining order by Kevin Pusser, 17, his Harris had issued Feb. 11 against the hair-length rules. The rejected suits were filed

brother, Brian, 15, Brian Tracy, 14, and Dave Silverman, 16

## Marin Trackmen Lose Their Suit

#### From Page 1

work not available in other school programs."

Then he wrote, "In these day, he said. parlous, troubled times when discipline in certain quarters appears to be an ugly word, it should not be considered unreasonable nor regarded as an impingement of constitutional prerogatives, to require plaintiffs to bring themselves within the spirit, purpose and intendments of establishes the authority of the questioned rule."

are Kevin Pusser, 18, a senior; his brother, Brian, 15, a sophomore; Bryan Tracy, 14, who prepared the case for a freshman, and David Sil- the Tamalpais Union High verman 16, a junior.

A downcast Paul Halvonik, staff attorney for the ACLU, groaned and then said, "I'm they preferred not to comsurprised. Of course we will ment until they have read appeal Judge Harris' deci- the decision and consulted sion."

know what I'll do. I'm not changing until I'm told.' Both he and his brother continued their workouts yester-

#### PLEASED

Robert Troppmann, Redwood High's athletic director, said he was most pleased by the decision and feels "it was for the good of athletics and the future of athletics.'

"It (the decision) recoaches to set reasonable The four youths involved re Kevin Pusser, 18, a sen-per; his brother, Brian, 15, a School district termed the decision "a reasonable one."

Other school officials said with the county counsel's of-Kevin Pusser said, "I don't fice, which is their attorney,

Hairy Trackmen Keep Running

yesterday to allow four their hair was too long. long-maned Marin high But yesterday attorneys school athletes to compete for both sides -in track.

George B. Harris, after a students and Richard Godino, brief hearing, issued an or- Marin County Assistant der restraining the Tamal- County Counsel - agreed to our running. We think the pais Union High School Dis- let the youths compete until hair length matter should be trict from "excluding these a hearing on a preliminary (four youths) from athletic injunction is heard. competition.

The majesty of a Feder- by athletic director Robert

Robert

That hearing, Judge Harris school." The four had been barred said, will be February 18.

first week of March.

"We've never been given a McCreadie of the American good reason why we should Chief Federal Judge Civil Liberties Union for the cut our hair," said one of the

"It doesn't interfere with settled between the boy and his parents, not by the

Godino said he agreed to a 16 and a junior.

The first track meet for the restraining order "because it al court was invoked here Troppmann because, he said, four cross-country and long gives all of us an opportunity distance runners will be the to have the matter resolved by a court of jurisprudence.

"If this court sets the law, and we think it is reasonable, we will abide by that decision."

The other three boys, besides Kevin Pusser who is 17 and a senior, are Brian Pusser, 15 and a sophomore; Bryan Tracy, 14 and a freshman, and David Silverman,

## 'Strict' Marin Hair Ruling 1/21/70 The great Marin county distance runners were sus- School District approved a

his coach has been temporarily laid to rest.

The big sideburn scandal-for they too figured short and some parents tear- those used by Troppmann into a series of studies and ing at their own hair, Mon- when he sakced the five athcontretemps-began Septem- day night when trustees of letes. They say "hair can not ber 24, when five hairy long- the Tamalpais Union High

high school hassel over pended from athletics at set of relatively strict-for how long an athlete's locks Redwood High School in high school kids, anywayman be before they upset Larkspur by athletic direc- grooming policies for the distor and then football coach trict's athletes. Bob Troppmann.

It ended, with tempers

The rules are identical to

See Back Page

Miller, who addressed an audience of som e 150 persons, held out little hope the matter will die.

"Thsi thnig could drag or for a couple of years. Someone could sue us and ther it'll end up in the courts. A parent of a kid who is interested in being part oft he athletic program is goingt o be making an issue of it.'

SVBC

or Quit, Judge

### Marin Hair Decision 1/21/70 From Page 1

A 'Strict'

fall over or below shirt collars and must not fall over ears. Sideburns must not be below mid-ear level."

Two other district high schools - Sir Francis Drake and Tamalpais - were relatively unaffected by the trustee's 3 to 2 vote.

Just how long the hair of the five runners was at the time they were told the locker room was out of bounds is in dispute.

#### LONG

Troppmann, a 46-year-old ex-Marine, maintained it was too long. Ed Neumeir, assistant to the district superintendent, described the heads of the five as "like English schoolboys, over the ears but not at shoulder length. It was bushy in back and touched the collar and one boy did have sideburns down to the lower lobe of his ears.

The five were, in any case, subsequently reinstated and Troppmann quit as football coach and threatened to resign as athletic director. He didn't but his action against the five triggered a chainfire of activities that included:

• A re-evaluation of school hair rules.

• A county-wide meeting of athletic directors and the appointment of an eightmember study group to study Redwood's existing hair regulations and write a report on possible implementation.

• A petition signed by 240 of Redwood's 280 young athletes, strongly supporting coach Troppmann.

ted by Richard V. Godino, assistant atterney, Marin holding that hair regulations written "solely because the school administration desires hair of a certin length is doomed to defeat.'

• A legal opinion submit-

• A whole series of special meetings open to the public where, as one observer put it with some sarcasm, "We listened to how many angels can dance on the end of a hair."

#### APPROVED

One of the three trustees who approved the district hair rules was Frank L. Mill-

Pointing out that time and effort spent on the matter would equal \$50,000 in normal services, Miller said:

"All our efforts have been turned to hair.'

Complicating the entire matter is the fact that the new ruling will apply only until June 30, the end of the school year. On September the board will again have to meet to hammer out the next school year hair policywhatever it may be.

#### POLICY

The hair policy, while mandatory at Redwood, will be discretionary at Tamalpai High which has some 2300 students - not a few with shoulder-length hair.

At Tam, each coach w 11 be allowed to use what amounts to a personal set of guidelines applicable to each individual sport.

Enforcement of the hair unkase at Sir Francis Drake has been deferred because that school not only has its own code but is also working up additional regulations to implement them.

It was reported that 60 per cent of the faculty at Redoowd had opposed uniform hair rules but Principal Donald Kreps and 13 of his 15 coaches had pressed for them.

natives are merely to forego 10 in team trim the hair above the collar testimony a unique form for the He added that "The alter and around the ears during athletic competition development of discipline. particular athietic season. and showed tht athletics sacrifice noted that lete and coach." Kunners dividual He vide an Civil Liberties Union, the stuing, Chief Judge George B. Harris ordered the school to The issue, Judge rearrant said, is "in an area involved Pending a hearing and rul-ing, Chief Judge George B. delicate Federal s keep practicing. he vacated that sensitive, went into Long-Haired boys let the boys Yesterday 1 dents court. order. a haircut or stop a Federal judge ordered four Marin high school athletes here yesterday. Redwood High running on the track team, School, had been told to cut four students, memheir hair above their eyes, ears and shirt collar or turn of the crosscountry heir hair above n their spikes at The team oers

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#### MEMORANBUM AND ORDER DENYING PSELIMINARY INJUNCTION

Plaintiffs seek injunctive and declaratory relief to redress the deprivation of an alleged right secured to plaintiffs by the Fourteenth Amendment to Constitution of the United States. Jurisdiction is conferred by 28 U & C Section 1343 and 42 U S C Section 1983. Plaintiffs seek relief respecting a regulation of the School District, adopted pursuant to the

California Education Code Section 10004 and 10009, which provides in part

Grooming Regulations.

(a) Each athlete will be well groomed and neat in appearance at all times.

(i) Each athlete will be clean snaven.

(c) The bair will be out of the eyes, trimmed above the ears and above the collar in the back.

wilful violation of the rules by any athlete will lead to his suspension from all athletic competition during the season in which the rules-infraction occurred.

Plaintiffs concede that they are in violation of the said rule and exceed the standards therein set forth. They further allege that they will be unable to compete in field, track and other athletic competition unless the rule in enjoyed.

The Court has considered the testimony of a number of witnesses. including team coaches, called by the parties. In addition the briefs and lengthy oral arguments have been noted. Authority was granted the California Coaches Association and the American Civil Liberties Union to file briefs awici curize and to argue the cause at length.

The question posed on this motion for preliminary injunction in whether the defendants have discharged the perden of justifying the rule on a rational and reasonable basis. Breen v Kahl, 296 F. Supp. 702. 709 Griffin v. Tatud. 300 F. Supp. 60 62, 63 01ff v. East Side Union fligh School District. 305 F. Supp 357

Purther, it should be observed at the threshold that this is a case of first impression in an area involved with the sensitive delicate and demanding role of athlete and coach. It appears that the regulation is made applicable only to those male students participating infextracurricular athletic competition. The alternatives are merely to forego an athletic competition or trim the hair above the collar and around the ears for a few months during a particular athletic season. There is no comparable rule sought or applicable to the stadent body at large.

The convincing testimony offered by the defendants through the medium of coaches and others demonstrated; That athletic programs provide a unique form for the development of discipline, individual sacrafice and team work not available in other school programs

That long hair could adversely affect performances in certain track events, particularly for sprinters; Also, that excessive hair length could interfere with the performance of swimmers, gymnasts, wrestlers and basketball players

Although there were divergent views with respect to morale in the enforcement of the rule, the several coaches called by the defendants considered the enforcement of such regulations as legitimate means of building team morale, discipline and team spirit.

It is particularly important to observe that the rule under attack was not the mere ipse dixit of a school principal or superintendent, nor does it represent the unbridled sanction of a committee seeking to impose discipline for the sake of discipline and conformity alone. Richards v. Thurston, 304 F.

14 F. Supp 449 454 It is most persuasive and important to observe that after thorough consideration involving the It is most persuasive and important to observe that after thorough consideration involving the community, the educators, coaches, students and administrators, the Board of Trustees chose to reaffirm the grooming rule that had been applicable to student athletes at Redwood High School throughout the years. The record is parren of any evidence that this was an arbitrary and capricious decision. Akin v. Board of siducation of Riverside, etc. District, 262 c.a. 2d 161. Ferrell v. Dallas Independent School District 302 F. 20 697, 702

The Court in Ferrell clearly observes the sensitive area involved when a court attempts to balance the elemental rights which are implicit in this controversy

This case brings into focus a sensitive area of the law. Constitutional issues which arise under the Bill of Rights have been before the courts many times. The decided cases clearly demonstrate that each case must be decided in its own particular setting and factual background and within the context of the entire which complaint is made is arbitrary, capricious, unreasonable or discriminatory." (p. 702)

It should be noted that the Supremen Court of the United States gave tacit approval to Ferrell in Tinker

v pes Moines School histrict 393 U S 503 507 508. In these parlous, troubled times when discipline in certain quarters appears to be an ugly word, in should not be considered unreasonable nor regarded as an impingement of constitutional prerogatives, it to require plaintiffs to bring themselves within the spirit purpose and intendements of the questioned rule

This Court does not believe that the application of the questioned rule under all of the circum-stances and in the setting of this case approximates constitutional proportions, and the Court so holds. Further there is a reasonable probability in the present posture that the case, if tried on the

merits, would be decided adversely to the plaintiffs. Accordingly, the motion for preliminary injunction is DENIED, and the temporary restraining order vacated annulled and set aside

The foregoing memorandum of decision embraces and contains the Court's findings of fact and conclusions of law in conformity with F R C P Section 52 (a) Dates MARCH 10 1970

United States District Judge

# Coach suspended in dispute over long-haired athletes

Herb Hudson was suspended indefinitely as athletic director at College of San Mateo Wednesday by Acting President David Mertes for refusing to re-instate five athletes booted off the track team because of long hair.

Hudson, through a representative of the California Teachers Association (CTA), Wednesday night unsuccessfully attempted to appeal Mertes' decision before the district's trustees.

CTA human relations consultant J. Quentin Mason asked the trustees for a personnel session on the suspension, but his request was denied.

"I haven't had a chance to review the matter yet," Chancellor Clifford Erickson said. The trustees suggested they would hear an appeal after Erickson completes a study.

In addition to his responsibilities as athletic director, the 57-year-old Hudson is also a counselor. Mertes said Hudson would continue in the latter capacity. The suspension will not affect his pay.

Mertes, who was named acting president only Monday to replace Robert Ewigleben, said Hudson was suspended



HERB HUDSON

"for failure to implement a direct order of the dress code relative to a decision rendered in the long hair controversy involving the athletes."

#### MORATORIUM

A moratorium on the enforcement of the athletic department's grooming and dress code declared Tuesday by Mertes, who was carrying out a four-point "plan" written by Ewigleben on his last day in office last Friday.

Tuesday's statement called for a moratorium on the enforcement of the present code while joint discussion between coaches and athletes took place.

Among the directives was that the five athletes, who were told they could not compete by Hudson on Feb. 11 because of the length of their hair, be reinstated "without penalty or prejudice" during the period of discussion.

Hudson said he would not reinstate the five because "the code is a part of our discipline and because I feel there was very poor administrative procedure."

Hudson, who joined CSM 25 years ago as football and b as e b a 11 coach, assailed Ewigleben, charging that the former president made his decision without consulting him.

Hudson told of a meeting between Ewigleben and the CSM coaches last Wednesday in which he said Ewigleben "stomped out in a child-like manner after only eight minutes because we told him (Continued on page 2, Col. 7)



## Hair It Comes Again Alashi

"I can't be Jack Armstrong, because Jack Armstrong is dead," says Gary John. "I have given up many things already for track . . . must I give up my dignity?"

"There are a lot of things you might not agree with, but either you follow the rules or you don't. A man has to stand up for what he believes in," says Bob Rush.

John, prospective College of San Mateo trackman, and Rush, Bulldog track coach, are the center of controversy in a hassle over long hair at CSM.

#### \* \*

Bob Rush and a Gary John is so very different, after all.

"Coaching is a relationship with men, not just winning and making good athletes," says John.

If it isn't we've been going in the wrong direction for a long time — regardless of whether an athlete is better off with long or short hair. Even though their rupture threatens CSM's track season badly, this is not what bothers us nearly so much as the failure of decent human beings on both sides to really communicate. This is how wars start — and not every opponent is a Hitler.

Personally, we find long hair, especially the unwashed stringy variety, and other "hip" things rather distasteful on men. But we realize not even very many long-hairs are indeed rock and bottle-throwing revolutionaries (whom we have no use for).

They are merely human beings with feelings, emotions and dreams like anyone else. We don't think what's inside a John and four other good Bulldog runners — Dave Robertson, Wayne Smith, Randy Lawson and Rick Nolan (no relation) have been ordered by Rush to get their hair cut by Wednesday or face expulsion from the track team.

In talking with John, who is spokesman for the group, and Rush, an unfortunate impasse appears to have been reached.

John, a 22-year-old Vietnam veteran, is no rock-throwing, obscenity screaming revolutionary.

Rush, a soft-spoken, dedicated coach who led CSM to last spring's Golden Gate Conference track title in his first season at CSM and to this y e a r's loop cross-country crown, is no flame-breathing drill-sergeant ogre.

And therein lies the pity. It's great to have a bad guy someone you can point a finger at and say "he's bad" or "he's corrupt." How can you do that here in good conscience?

Each side sincerely believes in its stand.

"Our hair isn't really terribly long," said John, "but that's beside the point. It's our c o n t e n t i o n our so-called grooming code is somebody's game . . it's illegal . . . we doubt its credibility . . . and we'll take it to court if we have to.

"CSM doesn't have a dress code for students . . . and we are in a regular one-unit class in track. Dr. (Herb) Hudson (Athletic Director) has taken on more responsibility than any other department head at CSM. He's overstepped his bounds.

"Athletic-imagery has become a myth. This isn't what reality is. This thing's driving me insane.

"We're not some scroungy trouble-makers who came out for track. We're people and athletes who want to retain our dignity.

"People might not realize that after reading your paper's story (Thursday)," says John, not with malice, but with a bittersweet realization of the tendency of readers to over-generalize about anyone with long hair.

These statements, made by John and presented here in a sort of "equal time" spirit after those by Rush and Hudson in Thursday's Tribune, point up the old athletic rights conflict.

We wish, desperately, we could be sure who's right, if anyone. We wish the world were simple, to the point where there indeed was a bad guy in this thing. Wouldn't it be nice?

## Hairy Query: How Long Is Too Long? Test for CSM Code

Study the photo in the adja-cent columns of the five athletes dropped from College of San Mateo's track team due to their hair length.

Judge for yourself - that's why the photo is there. Is or isn't their hair too long for athletic competition?

CSM Athletic Director Herb Hudson and track coach Bob Rush maintain that it is; the athletes claim it isn't; and last week in this space we discussed some of the feelings involved in the issue after the story first broke.

But, the issue seems to be developing into something more significant than just the hard-news angle of five athletes being dropped from a team.

Two key considerations are emerging: How long is too long? And, much more signifi-



cant, how binding is the CSM grooming code set up two years ago primarily by the athletic department?

The code, to repeat Hudson's definition, says that "hair in front should not interfere with play, sideburns be no lower than the bottom of the ear lobe, hair be neatly trimmed in back and mustaches and beards prohibited."

By these standards, a large

percentage of the male student body at CSM would obviously be ineligible for athletics.

Both of these considerations appear likely to be hashed out during the meetings between coaches, athletes and administration which will be held in the coming weeks.

Rush affirmed that the five athletes - Dave Robertson, Gary John, Randy Lawson, (Please turn to Page 14, Col.7)

- Tribune photo: by Reg McGovern Lawson, Robertson, Smith, Nolan, John Failed Test

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## CALIFORNIA INTERSCHOLASTIC FEDERATION AND C.I.F. PROTECTION FUND

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WILLIAM W. RUSSELL, Executive Secretary

DELMER B. MARSHALL, Associate Executive Secretary ROBERT E. STEUART, Administrative Assistant

May, 1969

TO: CIF MEMBER SCHOOLS

SUBJECT: JUDGE UPHOLDS AUTHORITY OF SCHOOLS OVER CONDUCT

The following article was published by the Texas Interscholastic League recently. The article is reproduced for your information.

Very truly yours

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WILLIAM W. RUSSELL State CIF Commissioner

WWR:ml

From Texas Interscholastic Leaguer

EDITOR'S NOTE--Shortly after the present school-term began, a teen-age boy in Austin was told he could not attend school until he got a hair cut. The boy and his parents requested court action to permit him to attend. In ruling that the Austin, Texas schools do have the right to set standards of dress and appearance, and to enforce them, Judge Herman Jones of the 53rd Judicial District made the following observations. The U.S. Supreme Court recently upheld a similar decision in a Dallas case.

The constitutions and laws of this state and nation have as one of their high purposes to safeguard the individuality, the diversity, and the right of protest and dissent of each citizen. However, it should be remembered that this is not done just as a favor or a bonus to the citizen; but, rather it is based upon the rather reckless faith that if our society protects the uniqueness of each individual and insures that he may freely express himself, this not only will bless the individual, but, also, each individual contributing his uniqueness in mind and spirit will strengthen and ennoble the whole.

But this is a day when it needs to be emphasized that these individual rights are not without limit and, further, that they carry with them a correlative duty to respect and honor the rights of others. Words like "duty" and "responsibility" seem to be in disrepute, but they are equally as significant as words like "rights" and "privileges."

'Blow the Whistle'

When an individual, in the exercise of his claimed rights, interferes with,

(Continued on back of page)

disturbs or disrupts the legitimate, pursuits of others, organized society must blow the whistle. It seems to be that this is exactly what has occurred in the case at bar.

Society, acting through its legally authorized school officials, has determined that certain standards of decorum, orderliness, dignity and appearance should be maintained in the classrooms of our public schools to promote teaching and learning there.

This is not an arbitrary determination but is made for the obvious purpose of guaranteeing that all students shall have the right to pursue their school work in a proper atmosphere, free from the disturbing and disrupting effects of odd or immodest dress and queer or eccentric hair styling. We cannot close our eyes to the reactions these matters provoke from other students.

#### Proper Dress

Physical and aesthetic considerations are important in promoting or retarding learning or in any investigation which seeks truth. In this courtroom, participants here are required to wear coats; smoking, chewing gum, beverages, edibles, reading newspapers and magazines, propping of feet are all forbidden while court is in session. This is not to say that we think these things are evil; rather, these prohibitions are grounded upon the conviction that they promote decorum, dignity, and a solemn atmosphere which is deemed to be imperative in the serious and sacred enterprise of trying to administer justice between citizens,

Surely, we can agree that what goes on in the classroom is not less serious or sacred than what goes on in this courtroom.

As I understand this record, there is no contention that plaintiff is being discriminated against; rather, it appears that the same rules and regulations are applied uniformly to all students. The regulations here under attack are not arbitrary or capricious, but, on the contrary, they have a reasonable relationship to the objectives of the school and in the opinion of the Court, they promote those objectives.

#### Rights Not Deprived

This Court is not called upon to determine that he would or would not have adopted the same regulations, and I do not propose to measure length of hair or shortness of dresses. The Court is required to determine only whether or not the regulations are so arbitrary, unreasonable and capricious as to be illegal, and thereby to deprive plaintiff of his constitutional and legal rights. It is the opinion of the Court that they are not.

It should be remembered that this young man is not required to trim his hair. But if he wishes to participate in the educational benefits afforded at McCallum High School, he shall trim his hair and comply with all the other valid regulations of that school.

#### 'General and Specific'

The Court is not unmindful that the regulation here involved is general and unspecific in its terms, but it is not believed that the same certainty is required here in fixing standards as the law commands in penal regulations; indeed, these situations do not lend themselves to certain standards.

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There has been no showing that the authorities here have interpreted or applied the regulations unreasonably or in a punitive manner or out of any motive other than to advance the best interests of the school and its students and faculty.

X

Contrary to an opinion which is becoming all too popular, authority is not evil just because it is authority. It is the abuse of authority and the excessive use thereof which is obnoxious. But in a free society, the discreet and fair exercise of authority is a thrilling thing and is not to be flouted or defied just because it is authority.

#### Personal Observation

Finally, while it may be improper from this place, I cannot close without making an observation that may serve no purpose other than to demonstrate how incredibly wide the current generation gap really is. If a little more than four decades ago, I had been sent home from school because my deportment or appearance did not comport with the decisions of the authorities of Decatur High School, there is no punishment that could be dreamed up by the principal, the superintendent, the School Board or the United States which I could even remember compared with the treatment my mother and dad would have dealt out to me in the woodshed.

You may be sure there would have been no questions asked, no debating society, and my rights under the constitution and laws of my state and nation would not have been the subject of discussion. In fact, there would have been no sounds except the ear-splitting wails of a little boy learning what authority really meant.

#### 'Cared, Loved Enough'

At that time I thought my parents were teaching me the meaning of cruel and unusual punishment, but as I look back to those dear, dim days almost beyond recall, <u>I just want to fall on my knees and thank God that I had some</u>one who cared enough, who loved me enough, to take me to the woodshed.

The temporary injunction is denied. Counsel for defendants will prepare an order accordingly.