

Q. I think it does. Coach Inman, do you know—do you know who the head of the Southeastern Conference is or was in 1962?

A. The Commissioner?

Q. Yes.

A. Yes, sir; I know him.

Q. Who is he?

A. Mr. Gardner.

[fol. 396] Q. Who is Mr. Gardner?

A. He is head of the officials' association.

Q. If you wanted to obtain an interpretation of a rule, who would you—who would you turn to?

A. Other than my coaching staff?

Q. Yes.

A. If the staff couldn't decide, I assume I would go to the man in charge of it who would be, in this case, Mr. Gardner.

Q. Did Coach Butts have anything to do with the football team during the 1962 season so far as coaching was concerned?

A. Not to my knowledge, no, sir.

Cross examination.

By Mr. Schroder:

Q. The note you read a moment ago in Page 5 reads: "Slot right—" you read it. I forget what page it's on.

A. The last page?

The Court: I think he is referring to the second note on the 5th Page.

By Mr. Schroder:

Q. Page 5, the second note.

A. "Slot to right ends normal (three yards)."

Q. As that note is written, it is incorrect, isn't it?

A. I am not sure I understand you.

Q. Do you put your ends out three yards on the slot right?

A. The right end is split three yards on slot right.

Q. This doesn't say that. It says both ends.

[fol. 397] A. It says "ends normal".

Q. "Ends normal (three yards)"; isn't that what it says?

A. In parentheses it says "three yards"; yes, sir.

Q. Do you put both ends out three yards?

A. On the side of the slot the end is three yards, as near as we can get it, which is, as I understand—

Q. You have two ends on your team, don't you?

A. The off end, if I could finish, the off end in our set-up would be anywhere from three feet to whatever it takes him to run the play.

Q. What is an off end?

A. The one away from the slot.

Q. All right, sir.

A. It would be the left end in a slot right.

Q. Then to the extent that this says your ends are three yards out or split, that is erroneous, isn't it?

A. Not to my thinking; no, sir.

Q. You used—you do split both ends three yards out on a slot right?

A. On slot right the right end splits three yards. The left end splits to do the job, whatever the call is.

Q. Does he go three yards out?

A. He could go three yards; yes, sir.

Q. Is that a slot right formation there on top?

The Court: I don't believe he can hardly see it.

A. (By the witness) Yes, sir; that is a slot right.

Q. I want you to show me this. The witness was not here yesterday, and I might state for his information this was drawn by Coach Griffith as Georgia's right slot formation.

A. Yes, sir.

Q. Now, your note there reads, "slot to right, ends nor-[fol. 398] mal (three yards)"; now, in order for that note to be put on this board, you would have to move this end out here to the same distance that would be, wouldn't you?

A. I suppose if you are going to say this (three yards) means both ends, you are right.

Q. How many ends does it say? Does it say singular or plural? Read it.

A. It says "ends".

Q. E-n-d-s?

A. Yes, sir.

Q. How many ends does a team have?

A. Two.

Q. One here and one there, right?

A. Usually one on the right and one on the left.

Q. That's right, sir. That is here and there?

A. Yes, sir.

Q. And when that said "ends normal (three yards)", your slot right, it would be a different diagram than this one, wouldn't it?

A. I don't see any marking up there about the split of that end.

Q. I didn't draw this. This was drawn by someone else. Can you see it all right?

A. Yes, sir.

Q. Well, the note that you have there in your hand is different from this, isn't it?

A. I think the right end in a slot is three yards and a left end is split anywhere from three feet to any position it takes to get the job done, and if you are saying this note says that both ends are three yards, then I would say that the slot right at Georgia could be that way.

Q. I am not saying—

A. But it would not be that way every time.

[fol. 399] Q. I am saying what the note says.

A. I thought you asked me—

Q. The note speaks for itself, doesn't it? I mean, just read it.

A. Mr. Schroder, you asked me what the note said.

Q. Read it.

A. "Slot to right, ends normal (three yards)."

Q. "Ends normal (three yards)"; now, that is not my language. The language there says that your ends are split

three yards; in effect, isn't that what it says "ends normal (three yards)"?

A. Yes, sir.

Q. All right, sir. Under that note this end would line up three yards away from the tackle just as that end is lined up three yards away from this tackle?

A. Under—if they were going to draw this, sir, I thought you said that was Georgia's slot?

Q. I am talking about—if you are going to draw that formation up, you would move this end out here, wouldn't you, three yards?

A. I suppose you would; yes, sir.

Q. All right, sir. No, oftentimes it is true, speaking of information and the reliability of information that comes into coaches' hands, it's been known often for one coach to plant information where another coach can get it, hoping he will rely on it; you know of instances like that, don't you?

A. No, sir; I don't.

Q. You weren't at Georgia in 1961 before the Vanderbilt game; you weren't at Georgia then?

A. No, sir.

Q. You never heard of that being done, a plant?

A. I have never done anything like that.

Q. I am just asking have you ever heard of anything like that?

[fol. 400] A. Have I ever heard of information being planted?

Q. Hoping that other coaches would rely on it?

A. I have heard of things like that. I don't know of any reliable coach that might use planted information.

A. We have what we call a spread; yes, sir.

Q. Did you use it last year?

A. No, sir—last year?

Q. Did you use it in the Vanderbilt game—I mean, the Alabama game?

A. No, sir.

Q. Is this similar to the one that Alabama uses and similar to the one Georgia Tech uses?

A. No, sir.

Q. Well, I don't know what the formation is, but you did not have any spread formation that you used against Alabama in '62?

A. No, sir.

Q. Is that correct?

A. Yes, sir.

Q. How—I have forgotten the score; what was the score of the Georgia Tech-University of Georgia game?

A. I would like to forget it; it is something in the 30's.

Q. Sir?

A. Was it 30?

Q. 30-something 6, wasn't it?

A. Yes, sir.

Q. And Georgia Tech and Alabama, you rate them even?

A. Georgia Tech won the game; yes, sir.

Q. Won the game how much?

A. I don't recall; they won the game.

Q. About two points?

[fol. 401] A. They used some kind of a spread formation and were able to win.

Q. Alabama used the same formation against Tech that Tech used against Alabama, didn't it?

A. I don't know, sir.

Q. Alabama beat Tech by two points, didn't it?

A. No, sir.

Q. Excuse me. I had it backwards. Georgia Tech defeated Alabama by two points, didn't it?

A. I am really not sure. I think that's correct. They won the game.

Q. And Georgia Tech and Alabama played Georgia about the same way, didn't they?

A. Different times of the year.

Q. Yes, sir. But about the same results?

A. I would say Alabama beat us a little worse on the scoreboard.

Q. That was the first game your sophomores had ever played in?

A. The Alabama game; yes, sir.

Q. Now, is there anything particular about these two plays as Coach Griffith drew yesterday, or wasn't Georgia using those same formations in 1961?

A. I can't—I really can't say exactly what Georgia used in '61.

Q. You did—you weren't at Georgia in '61, were you?

A. No, sir; I went there a little late, and so I didn't have an opportunity to study as much as I should have.

Q. All right.

A. But these formations we have used since I have been at Georgia, and I assume we have used some of those prior to that time.

[fol. 402] Q. Well, they are right basic formations for any Southeastern Conference Football Team, aren't they?

A. They are basic formations for any team that uses a slot with those splits and a pro-set with those splits.

Q. Do you know of any team in the Southeastern Conference that doesn't use either one of those two formations?

A. You just talked about the Tech game in which they had to go to what they figured was a surprise move and a spread that was not either one of those; no, sir.

Q. I say, do you know of any team in Southeastern Conference that does not use these two formations as part of their basic plan?

A. I don't know of any, but I couldn't say that they all do or do not, because I do not know that much about some teams. Like Tulane, for example, that I have not seen play.

Q. Well, it is a fairly common—both of them are fairly common basic fundamental formations, aren't they?

A. Along with a number of others; yes, sir.

Q. Yes, sir. Mr. Cody asked you about some rule interpretations, or who you would go to for an interpretation of the rules as they apply to football players and teams. In 1962—let me ask you this—I withdraw that for the moment. What organization establishes or promulgates rules to be followed by the teams all over the country, as well as those in the Southeastern Conference?

A. The Rules Committee. I don't know the exact name.

Q. I don't mean the members; the name of it.

A. I believe it is the American Football Coaches Association [fol. 403] Rule Committee. I am not sure about that, about the name.

Q. They promulgate and seek enforcement of all rules as they pertain to the various colleges which belong to that association throughout the country, don't they?

A. You understand, I don't have a very large background in college football. My understanding, they make the rules, and Mr. Gardner and other groups have to enforce them.

Q. Enforce them?

A. That means they have to interpret them, I think.

Q. Don't you know, as a matter of fact, that that association has local representatives in each area like the Southeastern area and the Southwestern area and the Pacific Coast area, and Midwest?

A. Which? You talking about the rules committee?

Q. Yes, sir.

A. I understood that is right.

Q. Who, in 1962, was the southeastern representative of that rule-making body?

A. I understand Coach Butts.

Q. Coach Wally Butts?

A. Yes, sir.

Mr. Schroder: I believe that's all, Your Honor.

The Court: All right, sir; any further questions from Coach Inman?

Mr. Cody: Just a second, Your Honor.

[fol. 404] Mr. Schroder: I may have one or two more.

Mr. Cody: Well, I have—

The Court: He said he might have another question.

Mr. Schroder: There was one question I missed.

The Court: All right, sir, go ahead.

By Mr. Schroder:

Q. I forgot to ask; you said you were—during 1962 you were the assistant offensive backfield coach?

A. I believe that is the way they—what they call it. I worked with the backs. Coach Trippi was the offensive backfield coach and I was called, I think, the assistant backfield coach, and worked in recruiting.

Q. You were Coach Charlie Trippi's assistant?

A. No, sir; I was Coach Johnny Griffith's assistant.

Q. I thought you said Coach Charlie Trippi was in charge of the offense?

A. He was in charge of the offense.

Q. And you were under him?

A. Everybody that worked with the offense was under the offensive coach; yes, sir; but I think I was considered an assistant at the University of Georgia, not another member of the staff.

Q. I understand that.

A. Yes, sir.

[fol. 405] Q. But Charlie Trippi was in charge of the offense, wasn't he?

A. Yes, sir.

Q. And you were—you were assisting him?

A. Yes, sir.

Mr. Schroder: That's all.

Redirect examination.

By Mr. Cody:

Q. Coach Inman, during the early part of your 1962 season, did you have secret practice?

A. You mean prior to the '62 season?

Q. Yes.

A. Yes, sir; at Georgia we have a fence around our practice field, and, as I recall, a manager was stationed at the gate and allowed only authorized personnel on the practice field.

Q. Is that a—is that a walled field? Do you have a wall around it?

A. Yes, sir.



Q. Was Coach Butts permitted to attend those secret practices?

A. Yes, sir; Coach Butts was our athletic director.

Q. Did—why is it, Coach Inman, that you—that you don't prepare or train your team for the first game of the season to use all of the basic formations?

A. Well, that is a decision, I think, that the staff has to make, and in our case I think the feeling was that we had a large number of inexperienced players and that by concentrating on these maneuvers and using these formations, using our best people in certain positions, that we could [fol. 406] move the football and do a better job. I assume that that is the reason everybody decides on certain formations.

Q. And you limited yourself to two?

A. Well, I would call it four, slot right, slot left, pro right and pro left.

Mr. Cody: That's all I have.

Recross examination.

By Mr. Schroder:

Q. I believe you said you ran from another formation, a punt formation you ran in the Alabama game?

A. Yes, sir.

The Court: Sometimes that is a necessity, isn't it?

Mr. Schroder: It wasn't this time.

The Witness: No, sir.

By Mr. Schroder:

Q. This was a planned play, wasn't it?

A. Called play.

Q. Called play. This Alabama end who caught the first touchdown pass—did you see the game?

A. Yes, sir.

Q. His name is Williamson?

A. I believe that's correct.

Q. Plays right end?

A. Yes, sir.

[fol. 407] Q. And he would play left end if they were going to swing him over that way?

A. Yes, sir.

Q. Did you hear Coach Butts tell the offensive coach or Charlie Trippi that—or John Gregory, when he came back from New York with Paul Bryant and with Ray Graves, coach at the University of Florida, to watch out for Williamson on the first opportunity that Alabama got, that they would throw the bomb, as they call it, to Williamson?

A. I don't recall being in on that conversation; no, sir.

Q. That is what they did too, wasn't it? They threw the homerun to him as soon as they got Georgia's interception, that was the first touchdown for Alabama, wasn't it?

A. Yes, sir.

Q. Don't you all—

A. It wasn't the first time they had the football, as I recall it.

Q. It was the first time they had the ball, I mean, when they intercepted Georgia's pass?

A. Yes, sir.

Q. And they were in position for the homerun, weren't they?

A. Were they in position for a homerun on 50, approximately? I would say anything that far out would be considered in football a homerun.

Q. And they did it?

A. Yes, sir; a fine executed play.

Q. Unfortunately, we at that time had an offensive man trained to play offense in the backfield, supposed to cover Williamson, didn't we?

A. Mr. Schroder, who do you mean "we"?

[fol. 408] Q. The University of Georgia.

A. Yes, sir; the University of Georgia.

The Court: Any further questions?

Mr. Schroder: Just one moment.

By Mr. Schroder :

Q. What is the name of the large—a student community—what is that, the Student Educational Center?

A. The Georgia Center for Continuing Education.

Q. Yes, sir. That is sort of in the shape of a hotel, isn't it?

A. Yes, sir.

Q. Has rooms upstairs?

A. Yes, sir.

Q. How close is that to your practice field?

A. It's—it's not exactly adjacent, but it is well within sight.

Q. No problem at all for someone up there to see if they wanted to see what Georgia was doing out there, was there?

A. I can't answer you positively. I have wondered about it, because it is a very pretty place and it is real tall.

Q. It is real tall, and Georgia practices out there behind. If they wanted to get in there and spy, there wouldn't be any problem, would there?

A. It's not behind it; it is this side of it.

Q. This side of it?

A. Yes, sir.

[fol. 409] Mr. Schroder : That's all.

Redirect examination.

By Mr. Cody :

Q. How far is that building away from the practice field?

A. Well, I have been having a tough time with three yards. I think—I would guess the hotel part of the building is two hundred yards, I suppose. This would be real—

Q. I just want your estimate of it.

A. I would think that's right.

Q. Two hundred yards?

A. There is a building there and some open space in the center, so, whatever that is.

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LEROY PEARCE called as a witness on behalf of the Defendant, after having first been duly sworn, testified as follows:

Direct examination.

By Mr. Joiner:

Q. Would you state your name, please?

A. Leroy Pearce.

Q. What is your present employment?

A. I am assistant football coach at the University of Georgia.

Q. How long have you been employed in that capacity?

A. Since February 8, 1962.

[fol. 410] Q. Did you play college football?

A. Yes, sir.

Q. Where did you play college football?

A. University of Wyoming.

Q. Coach Pearce, I wonder if you would tell these gentlemen of the Jury the experience that you have had in the field of coaching football?

A. I coached football for Coach Badden in Wyoming in 1950-51 and 51-52. I coached for Arkansas in 1953 and 1954.

Mr. Cody: Speak a little louder, Coach Pearce, if you can.

A. I coached at Tennessee for Coach Wyatt in '55 and '56. I coached at Iowa State for Jim Myers in 1957. I coached for Bill Jennings in Nebraska from 1958 through 1961.

Q. What time of the year did you come to the University of Georgia?

A. February 8, 1962.

Q. And what was your position at that time?

A. I was to coach the offensive ends and the defensive ends.

Q. And would you state whether or not you occupied that same position during the 1962 football season?

A. Yes, sir.

Q. Coach Pearce, would you state your opinion as to whether or not football coaches, in the course of preparing for a game, seek to obtain information about their opponent?

A. Would you—do you mean scouting?

Q. Yes.

A. Yes, sir. Scouting is a common practice, and in most conferences now they have the film exchange where you can [fol. 411] exchange films with your opponents, and, of course, you have people on your staff that scout. Most of the assistant coaches scout, and that is going to the game and watching the game to pick up anything that you can do, and those are common practices in football.

Q. Would you go into a little bit more detail about what is involved in scouting, what information you are able to obtain and what your purpose in scouting a football game is?

A. Well, in your football scouting you try to get an analysis of the team's offensive and defensive tendencies, get the plays they run, the formations they are in, and get all their defenses and stunts. These are things you can get in a film, because you can study a film and run it backwards and forwards. At a game when you are scouting it is real hard to get a lot of things like that, because it is hard to keep up with the game because you are trying to keep tendencies on downs, distances, situations, and trying to get a feel of the game and study their personnel actually by being there and not from the film.

Q. Would you state whether or not it is normal for coaches in the Southeastern Conference to try to attend the spring practice game of teams that they expect to play the next year?

A. Yes, sir.

Q. Are they able to obtain any information that will give some indication of what the team could be expected to do during the next year?

A. I believe that the most valuable information you could get from that would be the—it is the first time you get a chance to see boys that will be sophomores play the next year. Now, you—usually the teams are regulated on their offense and their defense so that coaches that are [fol. 412] there, if they bring enough people, they get a chance to pick up your stunts and things on defense or your offensive things.

Q. When you play that spring practice game, you know there are going to be opposing coaches watching, do you not?

A. Yes, sir.

Q. Now, would you summarize to the Jury the shortcomings in the procedures that coaches use to obtain information; in other words, what information would you like to have that you are not able to obtain through normal procedures?

A. Well—

Q. Maybe you'd like to break it down to detail the scouting first and then the films, and I believe you have covered the spring practice.

A. I wish you would restate that question, please.

Q. What are the shortcomings of scouting as far as getting complete information about a team that you are about to play?

A. Well, if you have the films you can take the films and break them down. I would say the only shortcomings as far as films are concerned is it doesn't show all pass patterns unless somebody has a wideangle film, and usually—now, we don't take them at Georgia, and I don't know whether anybody would let you have their wideangle film, but you can get pass patterns if you have the wideangle film. If not, you can't get those and you would have to rely wholly on your scouting or your scout at the game to pick up pass patterns. I think that would be the main weakness of films, but from films you can get their offensive and defensive patterns, and if they don't change it you can be in real good shape on it.

[fol. 413] Q. Now, what opportunity have you had to scout the team that you are going to play on the opening day of the season?

A. Well, you have, during the summertime you can get all of their last year's films which we did, and I am sure that everybody does, and I'd say that the only shortcoming about this is if there is a lot of change in personnel, you don't get to see the new personnel.

Q. And would you state whether or not there were a lot of changes in personnel on the 1962 Georgia football team?

A. Yes, sir. We played a lot of sophomores in 1962.

Q. Would you summarize for the Jury the procedures that football teams in general, and Georgia in particular, utilize to prevent other teams from obtaining information?

A. Well, at the University of Georgia we have what we call closed practices, and we have a wall around our practice field to keep people from getting in, and anybody at the practice is supposed to be admitted—we have a manager on the door and he is supposed to only admit people that have been—well, members of the Board of Trustees and things like that, and in most cases the press and—state the rest of the question.

The Court: He said—

By Mr. Joiner:

Q. What is the—

[fol. 414] The Court: He said state the rest of the question; he didn't understand the question.

Mr. Joiner: I believe he covered it, Your Honor.

The Court: All right, sir.

By Mr. Joiner:

Q. In particular during the 1962 season, what precautionary measures did you exercise with reference to your play groups?

A. Well, in 1962 I—we broke our team into three groups, the backs and the ends and the lineman, and had our foot-

ball players in group meetings and gave them the offensive and defensive assignments in those meetings, and I would say that our quarterbacks probably had a real good picture—well, I hope they had a real good picture of the overall offensive part of the game, but other players just had what they were supposed to do.

Q. In other words, the left guard wouldn't know what the halfback was going to do on the play, and the right end wouldn't know what, maybe, the quarterback would do?

A. I don't think it would be that bad. He would know in the numbering system because we number our backs. But if he were a blocker, the halfback were a blocker, the guard might not know that.

Q. If someone should try to obtain a copy of these plays, would you state whether or not they would have to have the plays for each individual position before they would [fol. 415] have a complete analysis of each offensive play?

A. I believe that they'd have to have the linemen, ends and backs.

Q. Coach Pearce, who was favored to win the 1962 Georgia-Alabama game?

A. Alabama.

Q. How much was Alabama favored to win that game by?

A. Well, as nearly as I can remember it was 14 to 17 points.

Q. I believe you previously testified you were not at Georgia during the 1961 season; is that correct?

A. Yes, sir.

Q. Have you had an opportunity to review the films for the 1961 season?

A. I reviewed all the films when I came to Georgia, and I studied mostly the end personnel, because I knew I would be coaching the ends for the 1962 season.

Q. To the best of your recollection, how many different formations were used by Georgia during the 1961 season?

A. I can't give you an answer to that because I don't know. I mean, there are—



Q. Could you give us an estimate, an approximate number?

A. Well, I'd just say several, because I really don't know.

Q. Now, Coach Pearce, what formations were used by Georgia in the 1962 Georgia-Alabama game?

A. Well—

Q. Basic formations?

A. The names that we gave them is a slot and a pro-set, [fol. 416] and I am sure that you have been over that.

Q. And would it be correct to state that you could say that there are variations of those two separate formations, or you could say it is four different formations? I mean, assuming you go both ways?

A. Assuming that you go both ways, if you count right and left, it is two different formations; it could be four formations.

Q. Would you state your opinion as to whether it could also be considered two formations with those variations; in other words, could it have been—state your opinion—state your opinion as to whether or not it could have been considered the pro-set formation going left and right and the slot formations going left and right?

A. I believe the best answer I could give is that if you put a play in, say, slot right, and put a play in, that you have the same play going the opposite way with it turned over. Now, I really don't understand your question if that is not the answer.

Q. Well, my question is whether or not the two basic formations—let me rephrase it. State your opinion as to whether or not the two basic formations used by Georgia in the 1962 Alabama game were the pro-set and the slot?

A. Yes. Our basic formations were pro and slot.

Q. Assuming that both of these formations were used by the 1961 Georgia team, along with other formations, would it be of any help to an opposing coach to know that these were the two particular formations that you were going to use in that game if he knew the formations you had used the previous year?

[fol. 417] A. If he was sure that those were the formations he could cut his practice time, mainly on those formations, and later in the week practice the other formations, the best plays you could use from the other formations. Did you ask me a question and did I answer it?

Q. My question was, assuming that the opposing coach knew all of the formations that had been used during the previous season and that these two formations were used during the previous season, if he knew that these two particular formations were going to be used in the game and no others, would that be helpful?

A. Yes.

Q. Now, how many formations did Georgia generally use in a game during the '62 season?

A. We didn't use very many formations, because we—

Q. I mean, in one particular game, how many formations would you usually prepare to use in any one particular game?

A. Well, we picked out two or three formations for each game, depending on what we thought we could do best against the football team that we were going to play.

Q. Now, assuming that the opposing coach knew from the films of the 1961 season the plays that Georgia had used during that season and assuming that Georgia used the same plays in the 1962 season, would it be helpful to a coach to know the particular plays that a team intended to use in a particular game?

A. If you knew the exact plays it would be helpful, because you could practice against them and get recognition from them.

[fol. 418] The Court: You mean plays for formations?

Mr. Joiner: Plays. I believe I covered the formations previously, Your Honor.

By Mr. Joiner:

Q. Coach Pearce, during the course of preparation for a game, do you normally have the first team defense work against the first team offense?

A. Well, we, at the University of Georgia we have the first team defense work against the scout team, and we have the first team offense work against the different scout team so that they actually never work against each other.

Q. What would the scout team that was working along with the defensive team be running?

A. The scout team that worked with our defensive team would run the opponent's offensive plays.

Q. To the best of your knowledge at that time, from scouting the offensive team?

A. Yes, sir.

Q. Coach Pearce, if information were given that would relate to the formations and plays of a particular game, would it be any more help in the opening game than in games later in the season?

A. Well, as I previously stated, I think it would—it would help you early because you would—if you knew of anything new, if you knew anything about players that had not played the previous year.

Q. Would you state your opinion as to whether or not it would be more helpful in the opening game than it would later on in the season?

[fol. 419] A. It would be more helpful in the opening game because as a team starts to play during the year, from one week to the next, you can't make a major change in your football team. So, anything that you have in the first game you will stick with that basically for the next game. You can change for each game a little bit, but not a major change.

Q. Would you state your opinion as to whether or not in college football it is quite frequently done for a coach to change in some respects his offense from one year to another?

The Court: You mean from one year, one game—

By Mr. Joiner:

Q. One year?

A. I would say a lot of coaches change from one year

to the next, because mainly if you are losing, you are trying to find something that is better than what you are doing, and you will—for instance, we have spent a lot of money going to coaching clinics, talking to other coaches and trying to find out what we are doing, and in our staff meetings if we decide somebody else is doing something that is better than what we are doing, I am sure we will change to it.

Q. Would you state your opinion as to whether or not the opponent of Georgia for the opening game of 1962 could have told, from reviewing the 1961 films, whether or not Georgia was going to continue to use the same offenses that they used in 1961?

A. I would say that they could have taken all the films of last year and broke them down, and the things that we did best from 1961, assuming that we would have used [fol. 420] those, they would have no assurance what we would have used.

Q. Would they have—what, if any, assurance would they have had that you were not putting in one or two completely new formations?

A. None.

Mr. Schroder: What's all this got to do with the case? We are just talking about two formations.

Mr. Joiner: Well, Your Honor, Mr. Schroder has made the point—

The Court: I think it is relevant.

Mr. Schroder: I withdraw the objection.

The Court: I overrule the objection. I think it is relevant.

By Mr. Joiner:

Q. Coach Pearce, I show you these notes which have been admitted in evidence, and ask if you recognize them?

A. I have seen a photostatic copy of these notes right here.

Q. Will you state whether or not you have seen them on more than one occasion?

A. Yes, sir; I have.

Q. And are you fairly well familiar with the contents of these notes?

[fol. 421] A. Yes, sir.

Q. Directing your attention to Page 6 of the notes, the third entry on that page, it is next to the last page, "slot right, right half on fly, screen to him"; do you see that entry?

A. Yes, sir.

Q. Would you state whether or not that comes close to describing a play that Georgia used in the 1962 Alabama game?

Mr. Schroder: We are coming close—I think that ought to be explained, if it is coming close and how close.

Mr. Joiner: Your Honor, I would like an opportunity to explain it. Mr. Schroder—

The Court: Go ahead and explain it.

Mr. Joiner: Mr. Schroder has tried to restrict this to the technical language on the notes, but the witness Burnett has testified that he was unable to get down the exact language and that some of this is sketchy information, and if some of it comes close to describing a Georgia play, I think it is important to have that information because it could very well have been that writing as quickly as he did Burnett was unable to get the whole play written down, and I think it is a proper question.

[fol. 422] The Court: I will let him testify as an expert if he could determine from those notes what it meant.

Mr. Schroder: Yes, sir. But seems to me what counsel has stated, he is seeking to impeach these notes he is relying on. If they don't speak the truth, he is trying to get it explained.

The Court: I don't think so. I will let him ask it. I will hold him within bounds.

By the Witness:

A. I think the best way I can answer your question is to tell you how we did screen for this game. We would—

assuming we had a slot right, we'd put our right half in long fly, we called it, and our quarterback would go on a drop back pass, and we would screen to our left halfback who had gone across. We did not screen to the man that was on the fly; we screened to the other halfback.

Mr. Schroder: Well, now, if the Court please, it is not a question what Georgia would do or did do. The question is whether or not Georgia has this play, and I think that the question that was asked a moment ago and the answer would be objectionable. The note speaks for itself. The Post has charged us with—charged Butts with giving detailed information as to plays.

The Court: As an expert, Mr. Pearce, could you tell from [fol. 423] those notes what that play meant in relation to what you knew of the Georgia offense?

The Witness: Well, this is not our screen pass. It is close to our screen pass. We screen to the other halfback, screen to him, and I think you have to—I don't know whether you can assume who "screen to him" is; if that is the plan on the fly, we didn't screen to him.

By Mr. Joiner :

Q. What if it is the left halfback?

The Court: I will let him explain it. I think the Jury will understand it.

By Mr. Joiner :

Q. If "him" is a left halfback, would that be an adequate description of a screen pass which you intended to use in the 1962 Georgia-Alabama game?

A. If "him" is the left halfback, yes.

Q. Directing your attention to Page 1 of the notes, would you give the Jury your opinion of the tackle on the '62 team named Rissmiller?

A. I have been asked about Rissmiller before.

Q. Let me point this out. I am asking your opinion as of the week before the 1962 Georgia-Alabama game and

not as of the present time, because I don't think that would be pertinent.

A. Rissmiller was a starter for us, and he is the best we have, but if you say "greatest in history," as this is, and I really don't know what "greatest in history" means, but he did not start for us; he was the best we had.

[fol. 424] Q. Would you state your opinion as to whether or not it would be helpful to an opposing coach to know who your best lineman was?

Mr. Schroder: I don't think that is the way the note reads, Your Honor. The note reads "Reismueller greatest in history," and again he is putting something else in the notes that is not in the notes.

Mr. Joiner: I think that—

Mr. Schroder: It doesn't say he is the best lineman.

The Court: He is going into a question of adjectives. I will let him ask him. I don't know what your last question was.

Mr. Joiner: Let me restate that, Coach Pearce.

By Mr. Joiner:

Q. Would you state your opinion as to whether or not it would be helpful to an opposing coach to know who your best lineman was?

A. I would say that; I would say that it would be helpful. You might want to run at him. During the game he might not be as good as he was supposed to be.

Q. Now, turning to Page 2 of the notes, third entry on that page, what was your opinion as of the week before the 1962 Georgia-Alabama game as to the state of the discipline [fol. 425] of the Georgia team? I realize it is hard to remember back that far, but if you would, just to the best of your recollection.

A. As I have stated before—as I have stated before on this question, I think there is a real wide meaning in discipline of a football team, what some people think discipline is and what other people think it is. Now, I stated before

that as far as the ends were concerned, and I was concerned mainly with the ends, that before we played Alabama I thought our ends were well disciplined. In the Alabama game I thought they did some things they shouldn't have done, and I didn't think they were well disciplined during the football game.

Q. Had Georgia added two coaches just prior to the '62 season?

A. Yes, sir.

Q. And who were those coaches?

A. Coach Inman and myself.

Q. Directing your attention to the third page of the notes, the first entry on that page, "on side guard pulls on sweep," what does that mean to you, Coach Pearce?

A. Well, this note—excuse me, I am—what does this mean to the Georgia football team or what does this mean?

Q. What does it mean to you? I mean, what do we mean by saying this on side guard pulls—

A. Okay.

Q. I am trying to get across to the Jury what you mean by that, because they as well as I are not quite as familiar with football as you coaches are.

A. Well, assuming a—a sweep is a play that is designed to run inside of an end or outside of an end, depending on how he plays. If he goes out, you try to kick outside; if [fol. 426] he plays tight, you try to run around him. On a sweep, assuming you are running it to the right, if the on side guard pulls on a sweep, it would be the right guard pulling, and that—I think I explained a pull, when they step back and turn up the field in the hole open, the first place there is daylight to block any one of the opposing players that they come to first.

Q. Would you state your opinion as to whether or not it would be helpful to an opposing coach in preparing to defend against a sweep to know whether or not the on side guard might pull on the sweep?

A. It is an unusual thing. A lot of coaches would never pull an on side guard because of the danger of somebody



shooting through that area and stopping the play, and we would only do it against certain defenses. Now, have I answered your question?

Q. I am not sure that you have. My question is whether or not in preparing a defense against a sweep it would be helpful to a coach to know that the on side guard might pull, but let me withdraw that and rephrase it in another way. Would it be helpful for a linebacker to be coached to be on the alert for an on side guard to pull on a sweep so that he would be able to shoot the slot or be watching for an opportunity to do so?

A. It would be helpful if the linebacker keyed on the guard; yes.

Q. Would you explain to the Jury what you mean by this phrase "shooting the slot"?

A. In football, in shooting the gap, if—we have the gap rule and I am sure that everybody has a gap rule, and if on our gap rule, if a guard takes too big a split and our guard feels like he can make it through the gap and get in the opposing team's backfield without being blocked by that [fol. 427] guard, we tell him to go ahead and shoot the gap. Now, that is—that is up to each guard each time. Now, was your question in reference to linemen or linebackers?

Q. A linebacker.

A. Linebackers, if they key the linemen they are playing against hard, in some cases are given the option to run through when a guard pulls or works down the line of scrimmage in the direction that he is pulled, because the guard is usually pretty good key on the direction he is going, and by "key" I mean what he does the defensive man reacts to that action.

Q. In other words, what you are saying is when the guard pulls out, there is a hole left there that the linebacker can run through and make a tackle; isn't that in essence what you are talking about?

Mr. Schroder: That isn't what he said, if it please the Court.

The Court: Mr. Schroder—

Mr. Schroder: If he is going to quote him, he ought to quote him. The witness says the linebacker follows the direction in which the guard is going, as I understood.

The Court: Just a moment.

The Witness: The linebacker—

[fol. 428] The Court: Go ahead. I think Coach Pearce can explain it.

The Witness: The linebacker in many cases will have an option of either running through the direction that the guard pulls from or working down the line the direction he pulls from. By working down the line I mean staying on his side of the line, and by running through I mean running through into the other team's backfield in the direction that the guard pulls.

By Mr. Joiner:

Q. Would you state whether or not when you say "running through" you are referring to running through the hole that was left by the guard when he pulled out?

A. Yes, sir.

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By Mr. Joiner:

Q. Coach Pearce, I believe we were on the top entry, note 3, with reference to the on side guard. Would you state whether or not during the course of the 1962 Georgia-Alabama game a play was run by Georgia in which the on side guard did pull on a sweep?

A. Yes, sir. We pulled our guards twice in the game.

Q. Would you state whether or not to the best of your recollection that would be reflected in the film?

A. Yes, sir; it would have been.

Q. Now, directing your attention to the middle of that page, "Woodward commits fast, safety men"; who was your first string safety man for the Georgia-Alabama [fol. 429] game of '62?

A. Brigham Woodward.

Q. And would you give your opinion as to whether or not he did commit himself fast in—I am talking now about previous to the Alabama game and in the Alabama game?

A. Woodward was a sophomore in 1961, and sophomores have a tendency to commit fast. Let me say, first of all, he is a real good tackler. He does like to tackle. Woodward, we felt that Woodward committed maybe a little bit fast, but we were working on it; we were trying to correct it.

Q. Would you state to the Jury what you mean by a safety man committing fast?

A. Well, a safety man is supposed to prevent touchdowns and supposed to be the last man in your defense, and if he goes up to make a tackle and the runner would happen to get by him, it might be a touchdown, or if they faked a run into the line and threw a pass in his territory it might result in a touchdown or a long gain.

Q. Would you state whether or not to the best of your recollection there were instances in the 1962 Georgia-Alabama game in which Woodward did commit fast?

A. He made several tackles on the line of scrimmage; yes.

Q. And would you state whether or not to the best of your recollection that would be reflected by the films of the game?

A. Yes, sir.

Q. Now, directing your attention to the next entry on that page, "weak defense, anybody except Blackburn"; how long did Blackburn play in the game?

[fol. 430] A. I can't answer that as to time. He didn't play very much.

Q. Would you state the reason for that?

A. Well, Blackburn, in practice before the Alabama game, was—kept getting pains in his stomach and did not practice very much, and so he just hadn't practiced enough to play very much.

Q. Would you state to the best of your recollection the date on which the coaching staff decided that Blackburn would not be used extensively in the game?

A. I can't answer that question at all, I don't believe, because I don't remember it.

Q. You don't remember the date on that?

A. No, sir.

Q. Assuming that this entry is with reference to pass defense, state your opinion as to whether or not this information would be helpful to Georgia's opponent in the opening game if Blackburn did not play very much during the game?

A. I'd say if Blackburn didn't play much during the game you could throw to anybody, to answer your question.

Q. Would you explain what you mean by that, what this entry means to you, and why you say you could throw to anybody?

A. Well, if—excuse me. If I answer your question, it says if Blackburn is not in the game and you say, "weak on pass defense, anybody except Blackburn," and Blackburn is not in the game, I would assume that would mean, and this is an assumption only, that everybody else is weak.

Q. And if it did mean that, would it be helpful to an opposing coach to know that in order to prepare his pass offense for the game?

[fol. 431] A. Well, if you thought the other team was real weak on pass defense you would plan to pass a lot.

Q. Now, directing your attention to the entry on the middle of Page 4, "long count, left half in motion"; would you state whether or not that has any significance with reference to any play which Georgia intended to use in the 1962 Georgia-Alabama game?

A. We used a long fly or long motion which put our half-back away from the formation before the ball was snapped. We practiced on it and we did use it on the Alabama game.

Q. Would that be reflected in the film?

A. Yes, sir.

Q. Now, directing your attention to the entry on the top of Page 5, "Bear on hook to goal line"; assuming that that is made with reference to end Mickey Babb, would you state whether or not to the best of your recollection you

had any such play in mind to use in the Alabama game, if the opportunity was present?

A. I have looked for our game plan and I haven't been able to find it on that, and we—Mickey Babb is six-four, and a real good target. I can't tell you "yes, that was definitely in our game plan"; I just can't answer that.

Q. Assuming that it was in your game plan, did you have an opportunity to use a play of this nature in the 1962 Georgia-Alabama game?

A. No, sir; we were never close to the goal line.

Q. Now, that next entry "slot to right, ends normal three yards"; assuming that to be a brief statement of slot to right, end is normally three yards, what would that mean?

[fol. 432] A. Well, to me that would mean that if—if we are in a slot right, that our end would be split three yards, and that—if that meant that that was our slot—let me say that last part over. Our slot was a three-yard slot, and I—I don't know whether this means our formation or what it means right here.

Q. Would you state whether or not it comes close to describing one of the formations that was used by Georgia in this game?

A. That is exactly—if it is slot right, ends normal three yards, that is exactly our slot right formation; yes.

Q. No, Coach Pearce, does it make any difference in preparing to defend against a slot formation whether or not the end is split two, three, four, five or six yards?

A. Yes, sir; it makes a tremendous difference to the people playing in the wide positions, which are the ends, and the people that I coach for the Georgia team. We thought it was real important to have a three-yard slot. In fact, we stopped our practice several times and measured off, just walked three yards. When you say three yards, until you get out there and pace it off to the boys they don't really understand what a three-yard slot is, and if I—if I knew that a team was—would be in a three-yard slot, I could—I think could do a better job preparing my defensive ends for that slot formation.

Q. Would you state whether or not to the best of your recollection you had any difficulty in getting the ends to line up prior to the 1962 Georgia-Alabama game exactly in a three-yard split?

A. Yes; I stated that. Our offensive ends?

Q. Yes.

[fol. 433] A. Yes. I have already stated that. We had a hard time. Like I said, several instances in practice we stopped practice and we would walk off three yards from the outside foot of the tackle to the inside foot of the end so they could have another look at what three yards really was.

Q. Now, directing your attention to Page 6 of the notes, the second entry on that page, "can't quick kick"; would you state your opinion as to whether or not Georgia did have an authentic quick kick for the Alabama game?

A. Would you tell me what you mean by an authentic quick kick?

Q. Yes. Perhaps it would be better if you just describe the quick kick that they did have and tell the Jury how that differs from a quick kick that might be used in the normal formation.

A. We had a quick kick formation, and we quick kicked from that formation, and in that formation we had our line regular, we had wingbacks, two backs at each end, a fullback, and our kicker or—and in our case it was Jake Saye who was our kicker, and a quarterback lined up deep. He could quick kick from that formation, and he could—could throw a pass or we could run the ball, and when we—we call it a quick kick formation, and then we call it quick kick if we quick kicked.

Q. Would you state your opinion as to whether or not lining up in that formation would tip off the other team to the possibility of a quick kick or a kick of some type?

A. Well, Georgia and Tech are the only two teams I know that quick kick from that formation. There may be more; I just know of those two.

[fol. 434] Q. State your opinion as to whether or not the surprise element of quick kick is greater from a normal formation than it is from this formation that you have just related to the Jury?

A. I would say any time that you could come out in a regular formation and quick kick that it would be more of a surprise element; yes.

Q. Now, would you state whether or not Georgia was able, in the beginning of the 1962 season, to quick kick from the normal formation?

A. No, sir; we could not.

Q. Now, directing your attention to the last entry on that page, "Baer catches everything they throw"; assuming that to mean end Mickey Babb, would you state your opinion as to whether or not Mickey Babb was the best receiver on the team, and you understand now that I have reference to the period of time immediately prior to the Alabama game?

A. Mickey Babb is an excellent target, and I am sure that Rakestraw wanted to throw to him more than any other end.

Q. Would you state your opinion as to whether or not he was the primary target in the Georgia-Alabama game?

A. We threw to Babb more in that game than anybody else; yes.

Q. Now, directing your attention to Page 7, the entry which appears on the top of that page, "slot right, left ends out fifteen yards"; what does that mean to you, Coach Pearce?

A. Well, that means that you are in a slot on the right and your left end is split fifteen yards, and this is your pro formation.

Q. Now, Coach Pearce, would you state your opinion as [fol. 435] to whether most of this information contained in these notes relates to the offense to be used by Georgia or to the defense to be used by Georgia in the game?

A. I wish you—

Q. Let me withdraw that and rephrase it. Would you state your opinion as to whether or not most of the information on these notes relates to offense or defense? Maybe you'd like to briefly go over them.

A. No; no, I kind of understand what you are talking about; I understand what you are talking about. These notes, as far as I am concerned, concern the offense of the team that is being talked about.

Q. Now—

A. Mostly; I will add that.

Q. Coach Pearce, to the best of your recollection, how many yards did Georgia gain in the 1962 Georgia-Alabama game running?

A. I couldn't even come close to answering that. We didn't make very many.

Q. Could you give us a close approximation as to the total yards?

The Court: He said he couldn't come close to it.

Mr. Joiner: I was asking about passing and running.

The Witness: No, sir.

By Mr. Joiner:

Q. Would you state whether or not Alabama had the ball—well, let me withdraw that and rephrase it. Would [fol. 436] you state your opinion as to whether or not Alabama was on offense in the 1962 Georgia-Alabama game more than the Georgia team was on offense?

A. We were on offense forty-six plays. I don't know how many plays they were on offense. There is usually about eighty plays, eighty-five. Seemed like—during the game seemed like they were on offense all the time, but that is not right. We were on offense forty-six times. I do not know how many times they were on offense.

Q. Coach Pearce, have you had an opportunity to review the films of the Georgia-Alabama—the Alabama Georgia Tech game for the 1962 season?



A. We studied the films before we played Georgia Tech, and I have seen them once since the season, but—and that's all.

Q. Who won that game?

A. Georgia Tech.

Q. Would you state to the jury to the best of your recollection how the game was won, what you remember of the closing minutes of the game?

Mr. Schroder: We have got into another game.

The Court: What's that got to do with this?

Mr. Joiner: Your Honor, I am not sure it's got any relevancy, but Mr. Schroder went into this game on the examination of Coach Inman on one or two points; I think it might throw some light on this case.

[fol. 437] Mr. Schroder: I don't remember Mr. Inman—

Mr. Joiner: I will withdraw the question.

By Mr. Joiner:

Q. Coach Pearce, you have testified with reference to the various things revealed by this note. Would you give us your opinion as to whether or not some of the things reflected in this note are also reflected in the film of the 1962 Georgia-Alabama game?

A. We are in two formations, and I think we have answered this as we went through.

Q. We did on one or two particular ones, but I am not sure we covered it all. I wanted a general "yes" or "no" answer—

A. Yes; yes.

Q. —before we go into the film. Coach Pearce, I wonder if you would be good enough to show the film to the Jury, and during the course of the film, if you run across some particular play, formation or anything else that is referred to in these notes, if you would run that part again and point it out to the jury?

A. Yes, sir.

Mr. Schroder: Don't I get a little cross-examination here?

The Court: Sir?

Mr. Schroder: Don't I get some cross-examination here?  
[fol. 438] The Court: Yes, sir; I will let you cross-examine him when he gets through with him.

Mr. Joiner: I believe the film is a part of our direct.

The Court: Yes, sir. I will let you cross-examine him and let you run the film back and question him about the film.

Mr. Schroder: Fine.

The Court: All right, sir. Let Coach Pearce—wherever is convenient for you, sir, to describe the plays to which you—

Mr. Joiner: I wonder if the Jury would be able to see.

The Witness: I will get a chair.

The Court: We have got to have the Court Reporter where he can get down what you say. When the screen is put up, I want to see whether you can see it.

Juror: So far, it looks fine.

[fol. 439] The Court: How about you?

Juror: This stand may be in the way, this podium.

The Court: Remove this podium, temporarily.

All right, we can turn off some lights when you get it adjusted. Are you ready?

The Witness: Yes, sir.

The Court: Will the marshal turn off—keep everyone out. Don't let anyone leave or anyone come in the court room.

The Marshal: Everyone remain seated, please.

The Court: All right, sir.

The Witness: The Georgia team will be in white; the Alabama in the dark jerseys. Georgia will kick off to Alabama.

This is Georgia kicking off, covering the kick. Alabama is on offense; Georgia is on defense.

Now, to establish things right now, this is what we call a slot left. Now, our left halfback is between the left end

and the left tackle, and the distance between the left end and the left tackle is supposed to be three yards. Our [fol. 440] regular fullback is in his regular spot behind the quarterback and our right halfback is right.

This is our slot left formation in this picture, and in this motion, if we talked about fly or anything, when the left halfback leaves early like this, this is a fly motion.

Now, just to show you right here again, this is a slot right formation. The distance between the right end and the right tackle is supposed to be three yards. That is our right halfback over there, fullback is in his regular position, and now the left halfback is behind the left tackle in the backfield.

This is a slot right. Rakestraw throwing, and it was intercepted; Alabama's ball.

Alabama is on offense. They throw a touchdown pass to Williamson, first play. They had us 7 to 0.

Our first formation is a slot right. This is slot right. There is throw to Mickey Babb.

This is slot right.

This is another slot right. It is hard to see.

Now, for the first time in the game, is what we call our pro-formation. This is a pro left, and a situation in the backfield and the left end, the left tackle is the same as slot left. The only difference is that our right end is split.

And Mr. Joiner asked me to point out anything that was relative to the notes. This left halfback, number 35 is going in what we call long fly or long motion right now. He gets passed the other halfback by the time the ball is snapped right there. We had a penalty on this play; it was called back.

This is a punt formation. We tried to run the ball.

Next is a punt formation and we kicked the ball. Some real good kicking.

[fol. 441] Now, I think just to point out whether it is reaction but to point out, Woodward is coming into the picture right now on the right. He is our safety man. He comes up and gets on the pile, and I think that that is what people would call "commits fast".

Judge, do you want anything pointed out more than once?

The Court: No, sir.

Mr. Joiner: I think once is enough, if you feel like the Jury understands that the one time.

The Court: Is it necessary for you to show all the film to bring out your testimony or just certain portions?

The Witness: I'd like to show the fourth quarter to show the guards pulling on sweeps.

The Court: You show it the way you feel like.

The Witnesses: This is a slot right. Another slot right. The third is a slot right, and then we punt. This resulted in two points for them. Our center snapped the ball over the head of the kicker, Jake Saye, and he is tackled in the end zone. Gave them two points.

This is Georgia kicking off, a free kick.

That is the end of the quarter, and we will have to change reels now.

[fol. 442] The Court: All right, sir, turn back on the lights. Coach, do you have to illustrate—to illustrate your point, can you show the—I want you to show anything you might feel important, but is there anything pertinent to your testimony in the second quarter?

The Witness: They have seen the formations. That is up to Mr. Cody. I think one thing in the fourth quarter it shows the guards pulling on the sweep, and I believe that we can show our formation, show the guards pulling. You have seen Woodward already. I would think you could see everything with the fourth quarter.

Mr. Joiner: That would be acceptable, Your Honor.

The Court: I wanted to cut down on the time.

Mr. Joiner: Yes, sir. I believe it would be all right to go into the fourth quarter. That would be fine.

The Court: All right. Mr. Marshal, just shut the door and don't let anybody out or anybody in.

The Marshal: Everybody have seats, please; remain seated.

The Court: You ready?

[fol. 443] The Witness: Ready.

The Court: All right, sir, turn off the lights.

The Witness: Georgia again on defense.

Georgia receives, and our first formation will be pro right, and this is the first time in the—we have run it in the film before, but this is the first time it has been shown here.

This our pro formation to the right with our left end split, and in the Alabama game we moved our right end—not our right end; we moved Mickey Babb when he was in the game, was going to be our split end all the time.

Now, we have not established who “him” was in our screen pass, but this is our screen pass coming up here, our right halfback is on the long fly, and you can see it is a drop-back pass. I don’t know who “him” is. We screened to our left halfback.

I will show you once more. This is our screened pass in the Alabama game, right half, long fly.

That is pro right ninety-nine.

Here is pro right ninety-nine, and on this play—now, on your right guard—well, we have an end; the right guard is pulling and leading up the hole. Right there he blocks on whoever this is, fifty-something. I don’t know what his number is. That is our right guard and that is a pull on a sweep.

This is another one right next to this. And the number has an 8 on him, whoever it is that pulled. It is pro right ninety-nine again.

[fol. 444] This is pro left and this is a pass, a throw to Babb.

I think we have touched on everything right now, Your Honor.

The Court: All right, sir.

The Witness: If you want to—

The Court: All right, sir, cut back on the lights.

The Witness: You want me to run this back now or later?

The Court: No, sir; I imagine you have some more questions.

Mr. Joiner: I have one more question to ask him, please, Your Honor.

The Court: All right, sir.

By Mr. Joiner:

Q. Coach Pearce, would you state whether or not to the best of your recollection Coach Wallace Butts attended any of the practice sessions prior to the 1962 Georgia-Alabama game?

A. I know that he was there sometimes; I don't know how many times. I know he was there.

[fol. 445] Mr. Joiner: No further questions, Your Honor.

The Court: All right, sir; go ahead, Mr. Schroder.

Cross-examination.

By Mr. Schroder:

Q. Mr. Pearce, when you were showing the film a moment ago you described the formations that Georgia was going into on each occasion. How did the formation Alabama was in differ from those Georgia was in?

A. Alabama used a slot and a pro formation also.

Q. Each time that they were on offense they were using the same formation Georgia was using when Georgia had the ball?

A. Yes, sir.

Q. All right. If I remember correctly, the film showed the first time Georgia used the pro-set, they threw and completed a pass, didn't they?

A. Yes, sir.

Q. And as I saw it from the screen, from the film, when Georgia used its screen pass. they completed it and made a gain?

A. Yes, sir.

Q. Didn't look like anybody was too well defending those in the film that we saw, did it; they weren't expecting it or not.

A. I don't know whether they were expecting it or not.

Q. Well, I mean—

A. We made five yards on it.

Q. You made your play successfully, anyway, on each of [fol. 446] those two occasions I described?

A. Yes, sir.

Q. That is the pro-set and also the screen?

A. Yes, sir.

Q. In the fourth quarter you showed us a scene there where you say the guard, the on side guard pulled and blocked the Alabama linebacker, I believe you said?

A. He blocked the linebacker on one occasion, and the next time he didn't block anybody.

Q. And missed his block the next time?

A. It didn't look like to me he even tried to block him.

Q. Anyway, the first time we used—when I say "We", I mean Georgia—the first time, as you related, the right side guard pulling on sweep, they gained yardage, didn't they?

A. Yes, sir.

Q. Evidently Alabama wasn't expecting that gain?

A. Well, from the yardage he had made it was hard to gain on Alabama.

Q. The three instances I have described here we did gain on them, didn't we?

A. Yes, sir.

The Court: Would you talk out just a little bit louder, Mr. Schroder, I can't hardly hear you.

Mr. Schroder: Who, me?

The Court: Yes, sir. I can hear Coach Pearce all right. [fol. 447] Mr. Schroder: Excuse me, Your Honor. I apologize.

The Court: That's all right; I am kind of deaf.

By Mr. Schroder:

Q. Before I go into the details of these notes, only some of which Mr. Joiner discussed with you on direct-examination, there are one or two questions that I wish to put to you, Coach. Before I do that—and the first one is this. One of the notes, I believe it is the one on Page 5, we have been talking about slot formations here a moment ago, and I think the other formation that you have been talking about is known as the pro-set which Georgia used against Alabama and which Alabama used against Georgia. Is there anything in these notes that you have there which states that those are the two formations to be used against anybody?

A. No, sir; it describes the two formations.

Q. Is there anything in those notes that even indicates that those are the only two formations that one team was to use against the other?

A. It is only two formations that I know that are mentioned.

Q. I see. Is there anything in the notes that says, in effect, that these are the only two formations that will be used?

A. Mr. Schroder, I don't think it says that they are or are not going to be used.

Q. That's right, sir. You remember—you said that when your deposition was taken—let me get your deposition. Have you read your deposition since it was written up?

[fol. 448] A. Yes, sir; yes, sir.

Q. You remember this question being asked you then: "Was there anything in those notes to indicate that the party who was getting that information to rely upon that; was there anything stated that those were the only two formations Georgia was going to use?" And the answer was: "Not in the notes, no, sir." That is what your testimony is today, isn't it?

A. Yes, sir.



Q. Now, from those films you indicated also an instance in which Woodward committed himself fast, you said, because he made the tackle?

A. I don't believe he made the tackle; he came up—

Q. Came up?

A. —and piled on the tackle.

Q. And that is what he is supposed to do, isn't it, on a running play?

A. A safety man is primarily responsible to prevent touchdowns. If he pops loose, he is supposed to tackle him; yes, sir.

Q. But Mr. Woodward, on that occasion that you showed us on the film, kept himself between the ball carrier and the goal line?

A. Yes, sir.

Q. And that is what his job is, isn't it?

A. Yes, sir.

Q. So there wasn't anything indicative about that scene because he was doing what he was supposed to do, wasn't he?

A. Lot of people in coaching never want their safety man to tackle a ball carrier within five yards of the line of scrimmage. I can't say what we do, because I do not coach the safety man.

Q. Well, are—did you mean to indicate by that film [fol. 449] there was something wrong with what Woodward was doing?

Mr. Cody: Speak a little louder, Coach.

Mr. Schroder: Me?

Mr. Cody: No.

The Witness: Were you talking to me, Mr. Cody?

The Court: Mr. Cody asked that you speak a little louder, if you could.

The Witness: Okay; yes, sir. In a press box you try to find people that are getting out of position. Whether he was out of position or whether he wasn't, he was up on the line of scrimmage and he is our last line of defense.

The Court: In other words, the point you are making, he shouldn't have been making the tackle on the line of scrimmage or piling on the line of scrimmage, being the safety man; is that correct?

The Witness: Unless the ball carrier broke a loose. If there is nobody there to tackle him, we would hope he would tackle him. We would—

The Court: He wouldn't make the tackle on the line of scrimmage if the ball carrier broke a loose, would he?

[fol. 450] The Witness: No, sir; he would not.

By Mr. Schroder:

Q. The point, Coach, is that if the safety man keeps the ball carrier between himself and the Georgia goal line, he is performing his job, isn't he?

A. If the man is a ball carrier, if it is not a fake to a man, if the man is a ball carrier; yes.

Q. Let me be more specific and refer to the play—the specific play that you pointed out when the film was being shown. The quarterback on that instance, or the safety man on that instance was doing what he was supposed to do, was he not, or do you feel qualified to answer, since you said you weren't coaching the backfield?

A. That's right. On that very play I'd feel—I'd say I am not qualified to answer that question.

Q. Let me ask you, if you had information for example, that the Alabama safety man committed fast and you were preparing the University of Georgia to play Alabama on the following Saturday, and you relied on that information, what would you be inclined to do insofar as preparing your offense, the passing offense is concerned?

A. I think you'd try to take advantage of that.

Q. You would try to take advantage of that weakness, wouldn't you?

A. Yes, sir.

Q. Now, you have seen these films, some—how many times, eighteen or nineteen times?

A. Yes, sir.

Q. All right, sir. When you—when you say, for example, that Babb is your best target and he is therefore thrown [fol. 451] more passes than the others, he was thrown quite a few passes in the Alabama game—

A. Yes, sir.

Q. —and in many instances he was in position to catch them, was he not, and he just dropped them? Make sure, I am not being critical of Babb; I am just stating a fact.

A. He had, I will say, several; that doesn't mean any certain number.

Q. Speak up, please, sir.

A. He had several chances to catch the ball and did not catch it; yes, sir.

Q. The reason he did not catch it, however, was not because somebody had him well defended, but because he dropped it; isn't that right?

A. Yes, sir.

Q. If someone called you or someone gave you information which you thought you could rely upon preparing Georgia to play Georgia Tech, and they told you that Georgia Tech had in its line the greatest tackle in the history of Georgia Tech, and you relied upon that information, how would you prepare your running game that you were going to use against Georgia Tech in your next week's game?

A. Mr. Schroder, we—I think we established this before that that didn't mean Rissmiller was the greatest lineman. I mean, I would just like to check back and see what's established.

The Court: He wasn't asking you that question. He was asking you—

By Mr. Schroder:

Q. I am asking you, from the notes here, sir, this is in [fol. 452] formation that was supposed to have been in the notes, "Reismueller, greatest in history;" all right, sir, you are the coach of the University of Georgia, and I know

something about Georgia Tech, information has reached me that you don't know, and I tell you that Georgia Tech has the greatest tackle in the history of the school by the name of Mr. Jones, plays left tackle. How would you react if you felt you could rely upon that information in preparing your offense for the forthcoming Georgia Tech game?

A. I—now, we are assuming the same position as Alabama and Georgia, that there were no films to look at?

Q. Name any school.

A. No; I just wanted—no films to look at, just from what somebody tells you?

Q. Yes, sir.

A. Well, I am sure I wouldn't set my basic offense to run at this person. I—I might instruct—I think I would instruct my quarterback that in situations where we needed yardage not to run at this person.

Q. Now, you have reviewed these films on any number of times, I think fifteen or seventeen, a number of times?

A. Yes, sir.

Q. Did Alabama direct its running plays away from Rissmiller?

A. I don't believe that they—I think they ran them wherever they wanted to.

Q. Rissmiller unfortunately was the target on several occasions and unfortunately he didn't make too many tackles, did he, again being sure for the record I am not being critical?

[fol. 453] A. I understand that. I will answer that "yes", and then I will qualify it by saying this, that Rissmiller, along with several other boys in that football game, were sophomores, and it is a tough job for a sophomore to open against Alabama.

Q. There is no question about that, sir; we are in a hundred per cent accord on that, but my point is really this. If this information that is listed in this note was given about Rissmiller being the greatest in history, and Alabama taking this information, they did not indicate by the way they had their running plays going that they were relying on this information, did they?

A. No, sir. They just ran every place.

Q. Just ran right at him like they did anybody else?

A. Yes, sir.

\* \* \* \* \*

LEROY PEARCE having resumed the stand, testified further as follows:

Cross-examination (continued).

By Mr. Schroder:

Q. Coach Pearce, during the first half of the Alabama-Georgia game, do you know how many times Georgia did use the pro-set?

A. No, sir; but I can check it, if you'd like me to.

Q. Do you have anything to check it by?

A. Yes, sir. Five times.

Q. Five times?

A. Yes, sir.

Q. On four out of those five times it was used successfully, wasn't it?

A. Yes, sir.

Q. During the half Alabama changed its defense to be [fol. 454] used against the pro-set in the second half, didn't they?

A. No, sir; they never changed their defense until we started running into the sidelines late in the fourth quarter.

Q. Well, during the first half, do you know whether—what player Alabama had out guarding the split end?

A. They had their rover man, that is, Williamson; he was an end.

Q. Do you know during the first half they had Jordon out there on occasion also?

A. No, sir.

Q. You don't know that, sir?

A. No, sir.

Q. But you do know—

The Court: You mean you don't know it or they didn't have him out there?

The Witness: Well, what I—I—I would—I would have to see it right now to believe it.

Mr. Schroder: Sure.

The Court: I didn't understand your answer.

By Mr. Schroder:

Q. Who is Jordan?

A. Sir?

Q. Who is Jordan? Is it Leroy Jordan?

A. Yes, sir; Alabama center.

Q. Center?

[fol. 455] A. Linebacker; yes, sir.

Q. Is he a fairly good ball player?

A. Yes, sir.

Q. He is the one, I think, that made All American?

A. Yes, sir.

Q. As I said, you did testify, though, after you have examined your notes, that on four out of the five times that Georgia used the pro-set in the first half it was done successfully?

A. Yes, sir. And we say we made ground, that is successful.

Q. That is really the object, to gain ground?

A. Yes, sir.

Q. When the film was being shown here before we had the luncheon recess you referred every time that Georgia was on offense what formation they were in as slot right or slot left?

A. Yes, sir.

Q. Now, during that same quarter you did not, of course, say anything about what formations Alabama was in when it was on offense, but do you recall what formations they were in?

A. They were in the exact same formation.

Q. So, if you were looking at the film and describing what formations Alabama was in, you would be saying slot right, slot left, or pro-set?

A. Pro right or pro left.

Q. Pro right or pro left?

A. Yes, sir.

Q. During the running of the film, I don't recall that you described any particular play that Georgia was running off of the formation that it happened it be in, but let me ask you this. You did see both Georgia on offense, as we did, and Alabama on offense during the first quarter and the [fol. 456] last quarter. Now, did you see any plays that Alabama used that Georgia does not also have in its repertoire, or would you have to look at it again?

A. Well, I can say this, that Alabama ran a hand-off and we didn't.

Q. A Hand-off?

A. And that is just one play.

Q. Yes, sir.

A. But I—I—I wouldn't want to say.

Q. Without looking at them again?

A. Yes, sir.

Q. What, please, Coach, is the difference in pulling a guard on a sweep and a switch block?

A. Well, now—

Q. Do you know the definition of switch block; you know what that means?

A. Well, now, we did not use a switch block. We used a swing block, and I think that is probably what you are referring to.

Q. All right, sir. What is a swing block?

A. A swing block—you are going to change assignments—

Q. Yes, sir.

A. —and the tackle is going to block down and the guard is going to pull around the tackle and block in that area.

Q. Block in the tackle's area?

A. Tackle's area.

Q. The tackle's zone, really?

A. I—I would say that that is probably correct.

Q. What is happening, then, on a swing block, for example, the man on the other team that the guard is sup-

posed to block is on his outside shoulder, and with the play going that way, the guard can't block him, so he and the [fol. 457] tackle switch assignments with the tackle out here; he blocks the man that the guard was supposed to block but couldn't, and the guard blocks the man the tackle was supposed to block when he takes—when they switch the assignments; is that correct?

A. Yes, sir. He will pull around the tackle and—he will pull around the tackle and block the first he sees.

Q. What is the difference between that which you describe as swing block and pulling a guard on a sweep?

A. If you pull a guard on a sweep, you tell him to pull up the first place there is daylight, and if you swing a man, he would actually have—if there is a man on the tackle, he would block the first man he came to.

Q. All right, sir. If Coach Griffith testified yesterday pulling a guard on a sweep meant that that guard was supposed to pull out on a sweep meant that that guard was supposed to pull out and lead interference for the ball carrier, is that your understanding of what pulling a guard on a sweep is?

A. Yes, sir. I would say that in addition to that that the guard—most guards are taught to pull up the first place they get a chance to pull up through the line.

Q. But they are—they are really, when they are pulling on a sweep, running interference for the ball carrier, aren't they?

A. Yes, sir.

Q. And that is different than the procedure we have just described as a swing block?

A. Well, ask me the question again, please.

Q. Swing blocks are used not only on sweep plays but on any play that might—well, off tackle play, they use a swing [fol. 458] block, do they not; they switch assignments when the guard is on the outside of my shoulder and I can't block him in?

A. Any play that is outside; yes, sir.



Q. On a sweep play, that is when, as you have described it a moment ago and as Coach Griffith described it yesterday, when you pull a guard on a sweep, you are pulling him out to lead interference for the ball carrier?

A. Yes, sir.

Q. All right, sir. Now, are you sure that Georgia has now or had—well, “has now” would be unimportant. Are you sure that Georgia had, in 1962, a play such as a sweep where they pulled their on side guard to lead the interference for the ball carrier?

A. Mr. Schroder, I think you are real technical there. I would think at any time a guard pulls around a tackle it would be a pull.

Q. Well, you are using it—you are using it to describe a swing block?

A. Yes, sir.

Q. To you “pulling the guard” means to swing?

A. If you had—if—he would tell the tackle to block down and tell the guard to pull on around the tackle and block.

Q. It is a switching of assignments. You mean pulling him to lead interference; they are the same thing?

A. Well, I think it is a real technical point in the fact that a guard on a sweep may turn up way inside if he sees daylight.

Q. All right, sir. Before we go back to the film here, I want to ask you a question with reference to your description of the slot right or slot left with the split end three yards out, and you said that you had some difficulty getting [fol. 459] the Georgia ends to understand what three yards was, amounted to?

A. Yes, sir. We in practice several times—a lot of times or several times, any amount, we would stop the play because the end would be too wide or too tight and go over to the tackle and step off three yards and tell him that is where he should be.

Q. Well, now, in the film which you have seen often, did you not notice that the end on slot right or the end on slot

left was varied in his position sometimes two yards from the tackle and on other times five yards from the tackle?

A. Well, he wasn't supposed to be. He is supposed to be three yards—I will tell you, it is real hard to tell from the film because of the angle of the camera.

Q. You saw the game yourself from the press box, didn't you?

A. Yes, sir.

Q. Would you say that Georgia's ends were always three yards?

A. No, sir; they were not always three yards. They were supposed to be.

Q. Don't you know that on many occasions that the end, Mickey Babb, moved his position from three out to five, back to two in order to take care of the offensive—I means, the defensive end playing opposite him?

A. Well, I think that would come under the discipline that we talked about earlier. He should have been three yards.

Q. But you know that he wasn't, don't you?

A. No, sir.

Q. You were watching from the press box?

A. Yes, sir.

[fol. 460] Q. You say he was three yards on every time?

A. He was—he—no, I will not say that. He should have been three yards.

Q. I know, but I am—in the game he wasn't doing what you had coached him to do, though, was he?

A. If he was supposed to be—he was supposed to be exactly three yards, and I will assume that he may have been two yards or he may have been four yards; yes, sir.

Q. All right, sir. Well, then, if that is correct, then he is not doing what the notes indicated that he ought to have done, is he?

A. If he was supposed—if he was supposed to be a three-yard end every time; no, sir.

Q. And if whoever was being told this was relying on that, then he wouldn't be getting much benefit out of it,

would he, if he was relying on him being three yards so he could set up his defenses to meet it but the man didn't know what the note said he was going to do, that—that is not too good, is it?

A. Well, I think that we would have to sit down and—

Q. All right, sir.

A. You can't tell from the film, but I think that he was three yards most of the time.

Q. He is going to be here as a witness. The matter which we discussed before lunch about the first touchdown which was shown on the screen that Williamson scored, the homerun—

A. Yes, sir.

Q. —the man assigned to defend him on that play was a man who was not in your plan as a defensive player, was he?

A. The man assigned—the man assigned was not; that is correct.

[fol. 461] Q. The man assigned to defend Williamson on that play had hardly played any defensive football at all, had he?

A. Now, we are speaking of practice, because he had never played in a football game before, college game.

Q. Well, on practice; you didn't practice him on defense, did you?

A. Not very much; just so we could line him up.

Q. On defense against the Alabama pro-set did Georgia employ the same defense or type of defense that Alabama employed against Georgia's pro-set?

A. Alabama was using the rover defense, and we were using the overshifted six. They used a rover man to the wide side of the field most of the time, and we overshifted most of the time. We just overshifted to the slot away from the split end most of the time.

Q. Did you change that at the half?

A. No, sir; we just tried to get our ends to play it better.

Q. Sir?

A. No, sir; we tried to get our ends to play it better.

Q. You used the word "overshifted"; Georgia employed an overshift in its defense against Alabama?

A. We used—we used a half a man overshift; yes, sir.

Q. Did Alabama use an overshift in its defense against Georgia?

A. They used a full overshift; yes, sir.

Q. Both teams were then using overshifts?

A. Yes, sir.

Q. Without going into too much detail, I want you, if you can remember from having seen the film, it was not [fol. 462] shown today, the part I am now talking about; when Alabama scored its second touchdown, do you remember how that—

A. I remember just exactly how it happened.

Q. Would you describe it to us, please, sir?

A. They were in a pro left; they had the right end split.

Q. Pro left, right end split?

A. With a right end split.

Q. That was the same formation they scored their first touchdown off of, wasn't it?

A. Yes, sir.

Q. The same formation when they scored their second touchdown, the pro left, right end split?

A. Yes, sir.

Q. Then what happened?

A. And they drove their end deep on our halfback and turn him in towards the middle between our halfback and safety man. The halfback came out in the flat about six yards down the field, and our end started to be playing off, did not stay off but started to rush the passer and left the right halfback wide open, and then they threw the pass.

Q. And they threw to him and it was a touchdown?

A. Yes, sir. He ran on over with the ball.

Q. So, unfortunately, that resulted from a Georgia error on the part of its end play?

A. On the part of its end and halfback play; yes, sir.

Q. All right, sir. You remember the next touchdown Alabama scored, how that was scored?

A. I don't know the play it was on, but—

Q. Well, wasn't it off of the same formation, Georgia's pro-set, pro left?

A. They scored another—they scored another play; I [fol. 463] am sure they went over the one yard line on the same type play with the split end and turning into the middle and catching a low pass. It was the same type formation; yes, sir.

Q. Was the end, the Georgia end, also supposed to cover the flat on that?

A. Well, Mr. Schroder, let me straighten that up.

Q. All right, sir.

A. Our end was given the opportunity to play in three different spots. He was either, as we call it, in a triangle, which means between the tackle and the end about four or five yards off the line of scrimmage; he could go out to the inside shoulder of the end and play out there. Or he could move back in and rush the passer. Now, it is a guessing game, so I don't think that you could say he is wrong. Maybe he didn't do the right thing on that play, but I don't think you can say he is wrong.

Q. Well, I haven't said he was wrong. I was using your language when you said that the touchdown resulted from the—

A. The first touchdown when he was off the line of scrimmage and started to rush; yes, sir; the second time he was on the line of scrimmage and forced and the ball was thrown over.

Q. Do you know of any play that Georgia has that Alabama doesn't have?

A. I couldn't answer that question. I don't know Alabama's plays.

Q. Have you seen about every play Georgia used also used by Alabama or other teams that you played during 1962?

A. I would say that most teams with the same formations will have very similar plays.

Q. All right, sir. Most teams in the Southeastern Conference [fol. 464] do have the formations that we are talking about now, the pro-set and the slot?

A. I would assume that's correct; yes, sir.

Q. All that use the "T" formation, that is?

A. Everybody except Tennessee.

Q. Everybody except Tennessee uses the "T" formation?

A. Yes, sir.

Q. You said this morning that during the middle of the season it would be impossible to change a formation—

A. No, sir.

Q. —or make a drastic change. If I have misstated the answer you gave, correct me.

A. The thing I said is it would be almost impossible to make a drastic change in your offensive plan or defensive plan in one week, I mean, just completely come out with something new.

Q. Yes, sir. You are familiar with the fact that Alabama did change its offensive pattern in the middle of the season or towards the end and got a whole new formation that they used in the game against Tech?

A. Yes, sir.

Q. And Tech did the same thing against Alabama?

A. Yes, sir.

Q. They both went into a spread on the same day?

A. Yes, sir.

Q. And neither had used a spread before?

A. Yes, sir.

Q. Did you know that both called it the same thing?

A. Called it—no, sir.

[fol. 465] Q. It had the same name, both Tech and Alabama, for their spread formation?

A. No, sir.

Q. Well, you didn't know. Let me return to the notes, now, please, sir, before I ask you some questions about the film. There were quite a few questions asked you—

Mr. Schroder: Excuse me.

The Court: Do you want some water, sir?

The Witness: No, sir; thank you.

By Mr. Schroder :

Q. You were asked quite a few questions about them this morning, and I want to make sure your answer is as you want it to be in the record. The first note on the first page, in fact, the only note on the first page having to do with this matter is "Reismueller, greatest in history", and you and I have, I believe, discussed that.

A. Yes, sir.

Q. That insofar as you know he is not the greatest in history to attend Georgia?

A. Georgia; yes, sir.

Q. On top of the second page there is a note "Rakestraw to right". Now, does that mean anything to you?

A. It means absolutely nothing.

Q. The next note reads "optional left pass if can block man on corner, keeps running". Now, do you know what [fol. 466] Georgia's optional left pass play is?

A. We didn't have pass pattern we called the optional left.

Q. Coach Griffith said that yesterday until he looked at a 1961 game plan, and they did use an optional left pass.

A. I am talking about 1962. We did not have—we did not have—what did you want me to answer?

Q. With reference to that second note "optional left pass if can block man on corner, keeps running"; does that mean anything at all to you?

A. To just—as far as it is concerned to me, if it meant—let me answer it this way. We didn't have that as a pass pattern, but if an optional pass was called, I assume a quarterback would run with the football if he was blocked; you would hope he would.

Q. You say you did not have that optional left pass, Georgia had no play like that in 1962?

A. No, sir. We had a—we had a—let me qualify that. We had a roll-out pass which, if it is a run or pass, some people call it an option to run or option to pass. We had that.

Q. Yes, sir.

A. But if the pass is called "optional left pass", we did not have that and would not mean anything to me.

Q. That would mean the quarter back would have an option as to which end to throw to down the field, the tight end or close end, being the right, and crossing over, or the left end down deep?

A. Well, if you said "optional" to me, it would mean that the quarterback is going to run or throw or else have two or three receivers downfield to throw; yes, sir.

Q. All right, sir. But you say Georgia had nothing like [fol. 467] that in their plans for Alabama?

A. Again, it is a technical point. We did not have a play we called "optional left pass". Anytime the quarterback drives out with the football, it is an option.

Q. But you did not have an optional left pass; that is the way the note reads, isn't it?

A. Yes, sir.

Q. I think you discussed with Mr.—maybe with me, the next note, which is "well disciplined ball club".

A. Yes, sir; have discussed it with you.

Q. And unfortunately Georgia was not well disciplined during the game? Alabama—the next one we have already talked about on top of Page 3, "on side guard pulls on sweep". The next note is "don't overshift", and you have already testified that both Georgia and Alabama were overshifting their defenses; that's correct, isn't it? You testified to that?

A. I testified that both Georgia and Alabama did overshift their defenses.

Q. All right, sir. Now, the next note is "Woodward commits fast, safety man". We have agreed that Woodward is the type of man who likes to get in and make a tackle?

A. Yes, sir.

Q. Now, if that sort of information—did we discuss this before lunch?

A. I don't believe we discussed it; we have discussed it.



Q. "Woodward commits fast, safety man"; that would indicate to you, as Alabama's Coach, that perhaps you would take advantage of it by throwing a pass into his zone because he had committed himself by coming up? Do [fol. 468] I make myself clear?

A. Yes, sir; you are very clear, very clear.

Q. Well, now, I believe you testified that Alabama did not take advantage of that—of the fact that Woodward committed himself fast because they threw no passes into his area?

A. That is exactly correct.

Q. All right, sir. Next one on Page 3, last one on Page 3 is "weak defense, anybody except Blackburn".

A. Yes, sir.

Q. And I believe your testimony this morning was that he had been ill or was ill and didn't play but five minutes?

A. I didn't put any time on it.

Q. Very shortly?

A. Very little; yes, sir.

Q. Well, just as a matter of, say you are an expert, if someone were trying to help somebody in a game and this fellow was the best man and he was sick, I'd be inclined to tell the opponent he was sick and he didn't have to worry about him, wouldn't you?

A. If he wasn't going to play and he know it, I would think that would be pretty good.

Q. He was sick for some week or so around there on the field, was he not?

A. Yes, sir; he was sick during our practice before the Alabama game.

Q. During practice?

A. Yes, sir.

Q. The next entry on top of Page 4, "Babb, slot right, split right end out"; that is anything in that note that means anything more than slot right?

A. No, sir.

Q. If you are in slot right, the right end has to be split [fol. 469] out, doesn't he?

A. Yes, sir.

Q. Nothing unusual about that; everybody that uses that slot does it that way, don't they?

A. That is a slot?

Q. A Slot.

A. Yes, sir.

Q. And everybody who uses the "T" formation uses a slot, as you know of here in the Southeastern Conference?

A. I assume so; yes, sir.

Q. That wasn't something new?

A. Slot formation?

Q. Yes, sir.

A. Oh, no.

Q. Wasn't new at Georgia?

A. No, sir.

Q. "Long count" is the next note on Page 4, "left half in motion". Now, I think that was pointed out by you on the film at one time; didn't you say a man—

Q. Isn't that a "garden variety" play by teams using the "T" formation?

A. Say it once more, please.

Q. There is nothing unusual; that is a common play?

A. It has come back in in the last few years and most people use it.

Q. Most people use it anyway, don't they?

A. Yes, sir.

Q. Alabama was using it against Georgia, weren't they?

A. I am not sure whether they used the overpass on us or not.

Q. Sir?

A. I am not sure that they used what we call the over-[fol. 470] pass or long motion on us.

Q. This note I mentioned doesn't read "pass"; it reads "long count, left half in motion".

A. I am not sure they used a long motion against us.

Q. You would have to check the film for that?

A. Yes, sir.

Q. But if they didn't use it, they would be one of the few that were not using it in the Southeastern Conference, wouldn't they, Alabama?

A. Yes.

Q. Next note is "best since Trippi, Porterfield". Of course, that is a matter of opinion, but you don't know—you know Charlie Trippi, but did you ever see him play?

A. We have discussed this before in the deposition. As I told you, I had seen him in a couple of films. I had never seen any of the interim football players and I would have no way to judge.

Q. You knew Trippi was also an excellent defensive player?

A. Well, I have heard that he was an excellent defensive football player; yes, sir.

Q. And Porterfield is the one unfortunately who was in the Alabama game supposed to be covering Williamson on that first pass and he wasn't supposed to be in there on defense?

A. Yes, sir.

Q. He is not a defensive player, is he?

A. Well, no, sir.

The Court: What was your last question?

[fol. 471] Mr. Schroder: "He is not a defensive player?"

The Court: Oh.

Mr. Schroder: Speaking of Porterfield.

By Mr. Schroder:

Q. On Page 5, the top note, "Babb on a hook on the goal line"; is there anything unusual about that play?

A. No, sir.

Q. Everybody hooks on the goal line if they are going to pass to the man; they use a hook?

A. Well, yes; yes.

Q. They have that?

A. You don't have as much yardage.

Q. That's right; you can't go down and out. You have only got ten yards; you have to turn around and hook?

A. Yes, sir.

Q. Sir?

A. Yes, sir.

Q. The next one is the one I believe we have discussed at some length, "slot to right, ends normal three yards"?

A. Yes, sir.

Q. There is one thing about that entry, it says "e-n-d-s", "ends normal", which to me would mean he would have both ends split three yards. Does Georgia have any formation where both ends are split three yards?

A. No, sir.

Q. The next note, "right halfback on fly, left half back, [fol. 472] quarterback gives to left half, left guard pulling blocks on corner." Does Georgia have any such play like that in their repertoire?

A. I think our countertrap would have to be checked on that; I am not sure.

Q. Well, does that mean anything to you?

A. As it is written, no.

Q. Sir?

A. As it is written, no.

Q. On top of Page 6, I don't believe you have discussed this note.

A. No, sir.

Q. Everybody brings in wide slots when they get down to the goal line, because you need all your power toward the center of the line?

A. To keep people from shooting inside; yes, sir.

Q. That's right. That is a common variety formation, isn't it?

A. Yes, sir.

Q. Now, you discussed this next note at some length on direct-examination, and all it says, "can't quick kick". Mr. Burnett added to that Georgia has nobody that can quick kick. Now, without—nothing said here about what formations you are in when you quick kick, is there?

A. No, sir.

Q. Well, that is an untrue statement, then, because Georgia can quick kick and does quick kick, doesn't it?

A. Yes; we quick kick.

Q. Yes, sir.

A. From the quick kick formation.

Q. That's right. But this says simply they can't quick kick, and that is not true, is it?

A. We can quick kick from a quick kick formation.

[fol. 473] Q. Therefore, what? This is not true, is that right?

A. Not true.

Q. Not true. The next one, I believe, we discussed also. You discussed with Mr. Joiner on Page 6—

A. Yes, sir.

Q. —“slot right, right half on fly, screen to him.” Georgia does not have that play in its offensive plan, does it?

A. Did we ever decide who “him” was?

Q. Let me put it to you this way. How many individuals are mentioned in the notes?

A. The right halfback is mentioned.

Q. It refers to one individual and that is the right half?

A. Yes, sir.

Q. And the “him” would have to refer to the only one that is mentioned, wouldn't you think?

A. If it refers to the right halfback, we do not have the play right.

Q. Is there anyone mentioned in there other than the right half?

A. No, sir.

Q. Well, then, Georgia does not have the play described in that note, does it?

A. Not that screen pass; no, sir.

Q. As a matter of fact, if someone was trying to give Alabama some information on what Georgia's offense was and gave them that information, and they spent two weeks planning, working their boys in defending against that play, and it turned out at the game they didn't throw to

the man the note says they are going to throw it to but threw it way out the other side, that would be nice, would it?

A. No, sir.

Q. Throws it the opposite way? Your screen pass calls [fol. 474] for an opposite way than the way this is written, doesn't it?

A. Opposite direction; yes, sir.

Q. Opposite direction?

A. Yes, sir.

Q. All right, sir. The next one reads, "29-0 Series, Babb catches everything they throw." As I understand it, Georgia does not even have a series known as 29-0 Series?

A. No, sir.

Q. I think it was testified to, however, yesterday, that Georgia has what is known as an 029?

A. 029, yes, sir.

Q. And that is known as the outside belly?

A. Yes, sir.

Q. That is when the quarterback gets the ball, comes out here half into the other back's belly and half into his, and they decide when they get to the line of scrimmage who is going to take it, in effect?

A. Yes, sir.

Q. "Babb catches everything they throw" couldn't—do they ever throw off of that 029?

A. I didn't think that is what you were going to say.

Q. Do they ever throw off of outside—

A. We don't have—for the Alabama game we did not have an 029 pass.

Q. All right, sir.

A. We had an 037, which is—which is the pass that comes off—

Q. Comes off the other end?

A. I mean, you have to assume a lot there.

Q. Certainly you did not have a 29-0 series for the Alabama game and you did not have an 029 pass for the Alabama game?

A. No, sir.

[fol. 475] Q. Well, I think you anticipated the next one. Mickey Babb does not catch everything that is thrown?

A. I thought you would ask me that. No; he did not catch everything. I wish he did.

Q. I wish he did too. The next one on Page 7, I think we have talked about that?

A. Yes, sir.

Q. And that is a common variety formation, "slot right, left end out fifteen yards" known as the pro—that would be called a pro left—no, that is a pro right?

A. We call it pro right.

Q. Pro right. And that is a common variety formation for all teams using the "T" formation?

A. Yes, sir.

Q. And there is nothing in these notes to indicate that that formation or any two formations are to be used by any team being discussed, nothing in the notes to that effect?

A. No, sir.

Q. Now, the final note having to do with a defense, "drop end off, contains with tackle". That is the—what you were describing a moment ago that Georgia was doing?

A. Yes, sir.

Q. When Alabama scored the second and third touchdowns, because the ends—well, the first time the end didn't—was out of position, let's put it that way?

A. Yes, sir; he was wrong; yes, sir.

Q. And, any way, Alabama used that same thing against Georgia, did they not? Well, I saw it in the film.

A. I am not trying to—I am just—with their monster [fol. 476] formation, they—well, yes, sir; they would have contained for tackle.

Mr. Schroder: All right, sir. Your Honor, let me confer just a minute here.

The Court: All right, sir. Let me ask a question.

## Examination.

By the Court :

Q. I am certainly no authority. Did Saye play quarterback?

A. Yes, sir.

Q. Rakestraw play quarterback?

A. Yes, sir.

Q. Anytime you got ready to punt, Saye had to be in?

A. Yes, sir.

Q. Rakestraw never punted?

A. No, sir.

Q. So, on an ordinary formation, on a "T" formation the quarterback stands right behind the center, doesn't he?

A. Yes, sir.

Q. And you had nobody who could quick kick other than Saye when he was in there.

A. Yes, sir.

Q. Therefore he couldn't be immediately behind the center?

A. Correct.

Q. He would have to be at least two, three, or four yards, how far?

[fol. 477] A. We placed him six yards.

Q. Six yards?

A. Yes, sir.

Q. So he couldn't run from a true "T" formation, quarterback position, Saye couldn't, and punt?

A. No, sir.

Cross examination (continued).

By Mr. Schroder :

Q. Can any other quarterback?

A. No, sir.

Q. It is physically impossible, isn't it?

A. Correct.

Q. When you kick the center right in the—if you did it—



The Court: Isn't it possible sometimes, or how do you true quick kick; if you had a halfback you could quick kick?

The Witness: If you had a halfback to quick kick, there is two ways to do it. One, you can give him a direct snap between the center's legs and between the quarterback's legs too, and he sidekicks. The quarterback can take the ball, pitch it to him, and he can take a sidestep and kick it. We could do that—if we could do it we could do it out of our slot or pro formations, but we can't.

Mr. Schroder: We had it over there about two years ago when Bobby Walden tried to quick kick, Your Honor; I [fol. 478] think you have seen this; and he kicked it right into the fullback's back.

The Court: I remember that.

Mr. Schroder: You remember that?

The Court: How does Georgia Tech quick kick, or do you know?

The Witness: They have always quick kicked with their fullback.

The Court: The quarterback would be the—would be standing right behind the center?

The Witness: Yes, sir.

The Court: And so—under that condition there would be an element of surprise, wouldn't there?

The Witness: Yes, sir.

The Court: Which is the chief weapon of a quick kick, isn't it? I mean, a chief point?

The Witness: Yes, sir.

[fol. 479] By Mr. Schroder:

Q. When you got Saye back there to quick kick, they can't defend against the quick kick, because they know he can run and they know he can pass, don't they?

A. Correct.

Q. They don't know he is going to quick kick, do they?

A. No, sir.

Q. And they better not plan on him quick kicking; it will pass right over their heads, won't it?

A. I would hope it would; yes.

Mr. Schroder: Yes, sir; that's all.

The Court: You don't have any further questions? Any further questions?

Mr. Cody: No, sir.

Mr. Schroder: I was going back on the film; I will wait, I mean, when my side is coming up.

The Court: All right, sir.

Mr. Joiner: No questions, Your Honor.

The Court: Thank you, sir.

[fol. 480] (Whereupon the witness was excused from the stand.)

The Court: All right, sir, call your next witness.

Mr. Cody: We rest our case, Your Honor.

\* \* \* \* \*

#### PLAINTIFF'S MOTION FOR DIRECTED VERDICT

Mr. Lockerman: Your Honor, under the rulings of the Court, as Your Honor well knows, the Court has ruled that the Defendant in this case had the burden of proving the truth of the charges against the Plaintiff as complained of by the Plaintiff in this article. I know that Your Honor has read the article very carefully, as all of us have, and I know that Your Honor is, therefore, very familiar with the charges that the Defendant made against the Plaintiff.

They charged him, just for the purpose of summarizing briefly, they charged him with being a fixer and a rigger, with having fixed and rigged the game against—between the University of Georgia and the University of Alabama in 1962 by furnishing all of the vital secrets and information concerning the Georgia plays, both offensive and defensive, to Coach Bryant. It also charged him with being corrupt, and, as Your Honor well knows, we allege in the Plaintiff's Petition that the innuendoes in the article are

such that it charges that the Plaintiff did these things and furnished this information as a gambling device and thus [fol. 481] implied, of course, that the Plaintiff either was gambling himself on the game or that he was doing so for the purpose of some gambling procedures.

Now, we take the position that under the Court's ruling, what they call their plea of justification, that they had the burden of proving by a preponderance of the evidence under the law that those things are true. I think when you analyze the things that they have shown by the testimony that they have introduced that the very most that can be said about it, that is, if anything in the way of proof, is that if the information was furnished as they contend, then all that it did in any way according to their own witnesses would have been helpful, and I think that is the word that their witnesses used, "would have helped the opposing team."

Now, the fact is that all that they say about those notes is that—as I understand it, and I am terribly handicapped myself because I don't know very much about football, and I admit it, but, as I understand it, about all they really say about those notes is that they reflect two coaches; Griffith and Inman, indications of two formations. I don't believe that the notes use the word "formations" at all, but the contents, the charges in the article referred to Georgia's plays both offensive and defensive, and certainly that indicates that they—that they claim that Wally Butts furnished the Georgia plays, and certainly it was in the plural as used in the article which carries the implication that he furnished Georgia's plays they intended to use.

The Court: Mr. Lockerman, let me ask you this question. Didn't Coach Griffith, and Coach Inman, and didn't [fol. 482] Coach Pearce testify that in their opinions those notes would have been helpful in defenses against Georgia's plays? Wasn't that the gist of their testimony, or am I wrong?

Mr. Lockerman: That they would have been helpful in—what did you say?

The Court: Helpful in defending against Georgia's offensive; substantially, isn't that what they testified? Isn't that the gist of their testimony?

Mr. Lockerman: It may be that they did say what amounts to something along that line, but—

The Court: And if they had had that information, one of them testified this, that if they had had this information, as an Alabama coach it would have been helpful, they thought it would have been helpful to them.

Mr. Lockerman: Let's go just a little bit further, though. They said that it would be helpful in what respect? It would have been helpful in the respect that Alabama would have used, say, less time in their practice because they would not have, say, gone through as many formations. But, one of them, specifically—I do not remember—I do not remember which one, but he said, even then, before completing the practice for that game they would have practiced all the formations that they had in their repertoire.

[fol. 483] Now, if all it is going to do is save a little time for the University of Alabama in some practice sessions, If that means that they are going to practice one hour instead of—I don't know whether they practice an hour or whether they practice a great deal, but the whole question is, does that amount to having fixed and rigged this ball game which the Post charges them with doing?

Now, just to be helpful, I think that two coaches talking together about football in general, and certainly that is the position of the Plaintiff in this case or would be the position of the Plaintiff in this case, that coaches do talk about football in general, and if you talk about football in general you are apt to get something helpful in that discussion. I would think that would be the reason they would talk about it.

The Court: My recollection, Coach Griffith said he didn't think—one of the coaches, maybe it wasn't Griffith, said he didn't think that coaches would discuss particular plays prior to a particular game.

Mr. Lockerman: But when you go through these notes, as has been done by Mr. Schroder on cross-examination, I think that when you sum it all up, that what each one of these coaches has, in effect, said when he got through with the cross-examination was that they really did not amount to anything of any vital importance.

The Court: Wouldn't that be a question for the Jury to pass on?

[fol. 484] Mr. Lockerman: Well, I would—I don't see how they could possibly ever—I mean, with all the technical information that was discussed, I don't see how they could ever arrive at it.

The Court: What are you asking this Court to do?

Mr. Lockerman: Your Honor, I undoubtedly should have started out with the statement at the conclusion of the Plaintiff's case in chief—I mean, the Defendant's case in chief, under the burden that they now have and under the Court's ruling that they have the burden of proof, that they have not shown by a preponderance of the evidence that they have put in, they have not carried the burden of proof that they had thrust upon them or placed upon them, and—

The Court: I will charge the Jury in regard to preponderance of the evidence, but if there is any evidence here, the matter would be left up to the Jury to decide which witnesses or what witnesses or whose witnesses—they determine the preponderance of the evidence, not the Court.

Mr. Lockerman: That would be—that would be true, Your Honor, if both sides put in, you know, evidence, under the preponderance of the evidence.

The Court: I expect to charge the Jury that as far as [fol. 485] proving the truth of the charges are concerned, the burden would be on the Defendant in this case under a plea of justification.

Mr. Lockerman: Well, that is our position, that they have not, by the evidence that they have put in, they have not proven the truth of the charges in any substantial way at all, and they have not carried that burden.

The Court: You would yet have to submit it to the Jury on the question of mitigation of damages.

Mr. Lockerman: Well, yes, sir; but our point is this, that as the case now stands that we are asking the Court to direct a verdict to the effect that insofar as their burden of proving the truth of the charges, we would have to go ahead, of course, with other phases of the case, but, I mean, under the burden that they had, they had to prove in their initial presentation of the case the truth of these charges. Therefore, if they don't carry that burden, then I think that the Court should—should direct that this has been a libel. They have not—

The Court: Oh, I am going to charge the Jury that this article is libelous per se; I expect to charge the Jury that the article itself is libelous per se. I think even the use of the word "corrupt—the Georgia Statutes vary a little on libel. Under the Georgia law a man in his profession, whether he is a doctor or a lawyer or farmer or coach or anything, who has been maligned, I think it is libelous [fol. 486] per se, and I will charge that the article is libelous per se.

Mr. Lockerman: My associate has just called my attention to this case of—no; it is not a case; it is Odgers' *Libel and Slander*, the fifth edition, Chapter 7 under the subject of justification. At Page 181 the author stated, "But the whole libel must be proved true. It will be no defense to the action to prove that a part is merely true. The defense must be pleaded to the words set out in the statement of claim and not to some other word of Defendant's own. Justification must be as broad as the charge and must justify the precise charge. If any material part be not proved true, the Plaintiff is entitled to damages in respect to some part."

The Court: I think the Defendant has the burden of proving that the sting of the libel was true, and if they fail to do that, then I think it is a matter for the Jury—for the Jury to determine whether or not they failed to prove the sting of the libel.

Mr. Lockerman: Your Honor, I did want to call your attention—

The Court: You go ahead, sir; I didn't mean to interrupt you.

Mr. Lockerman: The definition that is given in Webster's *New International Dictionary* of a "fixer" and certainly they have charged him with being a fixer—

[fol. 487] The Court: Yes, sir; I know—I am not exactly sure what "fixer" means, but I know what the word "corrupt" means, and I think the word "corrupt" would—I am going to charge the whole article was libelous per se.

Mr. Lockerman: Yes, sir.

The Court: Why doesn't that care for it all?

Mr. Lockerman: Certainly it will in Your Honor's charge to the Jury, but we felt that we should make a motion at this time—

The Court: Yes, sir.

Mr. Lockerman: —to the effect—a motion for a direction by the Court which, in effect,—this is a rather unusual situation, as Your Honor knows, because of the switch in the position of the parties.

The Court: Yes, sir.

Mr. Lockerman: But we do feel that the record should show that we filed a motion for a directed verdict—

[fol. 488] The Court: I want you to have every opportunity.

Mr. Lockerman: —on the point that the Defendant had not, under the evidence that it has shown, proven the truth under the burden that it had of the things that it has said against the Plaintiff in this article.

The Court: Mr. Lockerman, I think it would in error for this Court to withdraw that issue from the Jury.

Mr. Lockerman: Yes, sir.

The Court: I think you would be jeopardizing your whole case.

\* \* \* \* \*

HUGH FLEMMING having resumed the stand, testified further as follows:

Cross examination (continued).

By Mr. Schroder:

Q. Mr. Flemming, do have in your hand there a toll ticket representing a call from Cullman, Alabama, to Atlanta, Georgia, on September the 10th, 1962?

A. Yes, sir; I have.

Q. Would you please give the Reporter the exhibit number that has been given that one, I believe,—

A. It shows Exhibit 30.

Q. Thank you.

[fol. 489] A. Plaintiff's.

Q. Let me have a copy for opposing counsel. Could you interpret that for me, please, sir? You might let me have a copy too.

A. Yes, sir. This is a station call on September the 10th from Cullman, Alabama, to Atlanta, Georgia, to telephone number 874-1967. There is no name of the calling party.

Q. Does it indicate a charge card at the top?

A. Yes. It was billed on credit card 5434351 A-K 35.

Q. And that is—that, according to your information, is Coach Butts' credit card?

A. That is a credit card on that particular telephone number; I don't know whose it is.

Q. Do you have one on September the 11th, 1962, from Birmingham, Alabama, to Atlanta?

A. Yes, sir; I have.

Q. That one was placed at what time, sir?

Mr. Cody: Your Honor, may I interrupt this witness just a moment?

The Court: Yes, sir.

Mr. Cody: In the interest of time I am perfectly—I see he has a number of these toll tickets. I am perfectly willing for him to take them back and make the same type of



schedule that we have done in Athens and Tuscaloosa and Atlanta and Chicago, and list it, and I will agree that that is a correct summary of what those toll tickets show. We take his word for it. It can save a lot of time.

[fol. 490] Mr. Schroder: I agree with you, but—will you agree with me that the toll tickets I have now need no further explanation by any expert witness if I need to introduce them?

Mr. Cody: I will; I will agree to that.

Mr. Schroder: There is no need, then, to pursue this further. I don't need any study of it made.

\* \* \* \* \*

FRANK GRAHAM, JR., called as a witness by the Plaintiff, after having first been duly sworn, testified by deposition as follows:

Cross examination.

By Mr. Schroder:

Q. State your full name, please, sir.

A. Frank Graham, Jr.

Q. And your address?

A. 201 Congress Street, Brooklyn 1.

Q. Your occupation, sir?

A. I am a writer.

Q. What type of writing do you specialize in, if any?

A. Chiefly sports.

Q. What is your age, Mr. Graham?

A. I am 38.

Mr. Schroder: Speak a little louder, please, sir.

By Mr. Schroder:

Q. How long have you been engaged in writing sports?

[fol. 491] A. I was a publicity man, publicity director of the Brooklyn Dodgers, for which I did a lot of writing from 1951 through 1955. Since then I have been chiefly a writer.

Q. Specializing in baseball or in general sports?

A. General sports. I was assistant managing editor of Sports Magazine, also, for two years.

Q. Where were you educated, Mr. Graham?

A. Columbia University.

Q. Did you major in journalism?

A. No, I majored in English.

Q. What year did you graduate?

A. 1950.

Q. Have you written a great deal on the game of football?

A. Not a great deal, no.

Q. Are you what one might call a football fan?

A. Yes, I have watched football ever since I was a child. My father was a sports writer and I started going to games with him, and I played a little in high school at Iona Prep.

Q. I-o-n-a?

A. Yes.

Q. Do you know Furman Bisher?

A. Yes, sir.

Q. How long have you known Furman Bisher?

A. I don't believe I ever met him face-to-face until some time in February, the end of February, of this year. When I was at Sport Magazine, also with the Dodgers, I talked to him on the phone several times, and I may have met him at a World Series, about 1954 or 1955.

Q. However, you don't recollect having met him face-to-face until February of 1963?

A. That's right.

[fol. 492] Q. Did you talk to him in 1963 prior to your meeting him face-to-face?

A. No, I didn't.

Q. Where did you meet him on this occasion?

A. I met him here in New York.

Q. What were the circumstances of the meeting?

A. I had just come back from Atlanta, and Furman Bisher was in town on some kind of speaking engagement, I believe, and he called the Post to say that he had a

story, and I had a call from Roger Kahn, senior editor here, and he said Furman Bisher was in town and he would like me to come in and meet him, talk with him.

Q. Do you recall the date on February that this occurred?

A. Well, it was the Monday after Washington's Birthday, I believe. Washington's Birthday was a Friday, I think.

Q. That would be—

A. About the 25th or 26th.

Q. About the 25th or 26th?

A. About that.

Q. Let me interrupt that thought for a moment and ask you, did you bring your notes that you used in writing the story?

A. Yes.

Q. Would you be able to give me the specific date better by consulting the notes, or would that date appear in the notes?

A. No, it would not appear in the notes.

Q. Had you, prior to that time—and we will assume that it was February 25th—been in touch with the Curtis Publishing Company about the story that Furman Bisher called the Post about?

A. Yes.

[fol. 493] Q. What was the story that Furman Bisher had that he wanted to consult the Post or you about?

A. He said it was a story about Georgia football.

Q. Did it turn out to be the story that you wrote in the Post in the issue of March 23rd?

A. It did.

Q. Did you talk to Furman Bisher on the occasion that he was in New York on February 24th or 25th?

A. I talked with him the evening of February 23rd and briefly on the telephone on the next day, which would be Tuesday.

Mr. Schroder: Well, there is a correction there. We understood that this is Monday after Washington's Birthday; I believe the witness said "the 23rd" when he meant "the 25th."

By Mr. Schroder:

Q. Where did you meet with Furman Bisher on the evening of February 25th?

A. At the Manhattan Hotel.

Q. Manhattan Hotel?

A. Yes.

Q. Is that where he was staying?

A. Yes, he and his wife were in town.

Q. Was that the first time that you recall in the year 1963 that you had been in communication with Mr. Bisher?

A. Yes.

Q. And I believe you said that he called you or did someone from the Post call you?

A. Furman called the Post and the Post arranged for me to meet him.

Q. Did you spend some time with Mr. Bisher at the Manhattan Hotel that evening?

[fol. 494] A. Yes, we spent an hour and a half.

Q. Did you meet in his room or down in some other room?

A. Downstairs, in the cocktail lounge.

Q. And you were with him and his wife for an hour and a half?

A. Yes, she came later. I was with Roger Kahn.

Q. Kahn went with you to see Bisher?

A. Yes.

Q. What, in general, did Mr. Bisher tell you at that meeting at the Manhattan Hotel?

A. He told me substantially what I had learned in Atlanta, much of the information which was in the affidavit which George Burnett signed for the Post.

Q. Did Mr. Bisher indicate to you the source of his information?

A. Yes. Apparently he got a good deal of it from Cook Barwick.

Q. Did Mr. Bisher subsequently do some work for you or the Post in connection with gathering information for your article?

A. Yes, he did.

Q. Was he employed at that time, that evening that he met with you?

A. Yes, that day. He may have been employed before I met—I don't know if there had been a firm understanding, but the agreement was that I would come and meet him and talk to him and tell him what I had heard and he, in turn, verified this information, or some of it. Then he was to—originally I was going back to Atlanta, and then it was decided—I think you will have to check with Mr. Kahn—then it was decided, so far as I know, because he would have more entrees to people in Atlanta, that he would complete the investigation down there. They would send me—he [fol. 495] would send me material from which I would complete my story.

Q. What was the pay by the Post or what was the agreement as to his compensation?

A. I don't know.

Q. That was not discussed in your presence?

A. No.

Q. As I understand your testimony, Mr. Graham, Mr. Bisher confirmed what you said you had already heard in Atlanta when you had been there on the previous date in communication with George Burnett?

A. Yes, he had heard much—some names, I believe, he was unfamiliar with, some questions he asked me, and then he said he would go back that week and he would get more information or talk to more people, et cetera.

Q. Do you remember what information it was that he had and which he discussed with you which you didn't have, by way of names or any facts?

A. That I didn't have?

Q. Yes, that he gave you.

A. No. He just gave me a general background. He talked to me of the background of the situation in Atlanta, the situation at the University, and identified some people for me more precisely, people whose—

Q. I understand you said that you mentioned some names to him with which he had not previously been familiar.

A. Yes, there were names like Milton Flack.

Q. He had not heard that name before?

A. He had heard the name, but he was a little vague on some of the details, how Flack fitted in et cetera. I would say substantially the information we had, he had, because there were only two affidavits in existence.

[fol. 496] Q. One which Burnett had given to you and the other one he had given to the—

A. University.

Q. Did he have that affidavit with him when he met with you?

A. No, no, he had no affidavit.

Q. When did your visit take place to Atlanta in connection with this story?

A. I flew down on a Wednesday evening, which was the 20th.

Q. What were the circumstances leading up to your trip to Atlanta?

A. I was called at home by Mr. Kahn, who said that the Post had an assignment for me, and would I come in and talk to Davis Thomas, the managing editor of the Post, on a Tuesday morning.

Q. Your call by Mr. Kahn took place when?

A. Monday of that week.

Q. That would have been what date?

A. That would have been the 18th.

Q. The 18th?

A. Yes.

Q. And Mr. Kahn told you that he had an assignment for you to do for the Post?

A. Mr. Thomas had an assignment for me. As I understood it, Mr. Thomas said that he had a story which involved sports and he asked Mr. Kahn to get a sports writer.

Q. Then you came into the Curtis Publishing Company's office the following day?

A. Tuesday.

Q. Tuesday?

A. Yes.

Q. And you talked with Mr. Kahn and Mr. Thomas?

A. Yes.

[fol. 497] Q. What was the substance of that conversation?

A. They said they had information about a man—they were not positive—a man or a boy, they didn't know who he was—whether a college student or an outside person—who had overheard a telephone conversation between Wally Butts and Bear Bryant, in which certain information was passed from Butts to Bryant, and they asked me to go down to Atlanta to meet an attorney in Atlanta who was coming in from Birmingham, Roderick Beddow, and I was to go to the Heart of Atlanta Motel, get there on Tuesday night, and on early Wednesday morning I would be called by Mr. Beddow.

Q. Mr. Beddow is the lawyer representing the Curtis Publishing Company in the libel suit pending against it in Birmingham?

A. That's right.

Q. And I believe Bear Bryant is the Plaintiff in that action and the Curtis Publishing Company, along with Furman Bisher, is the Defendant? Did you know that before?

A. I had read something in the paper about it and I heard more about that that Tuesday morning.

Q. That was when you had your meeting with Mr. Kahn and Mr. Thomas?

A. Yes.

Q. What did they say to you about the lawsuit pending in Birmingham against the Post and against Bisher?

A. They simply said that this firm in Birmingham was representing them in a suit, this suit, and that through this firm in Birmingham, this information had been sent to them.

Q. What else did they have to say about that lawsuit?  
[fol. 498] A. That is all that I can recall.

Q. You say—

A. That there was a suit for \$500,000, that Bisher had written this story in the previous fall, I don't remember

the date, and they were being sued, and out of this—let's see—they were being sued by Mr. Bryant, and their lawyer, Roderick Beddow, had sent them this information and they wanted me to go down and see if there was a story for the Post.

My assignment was to go down and meet with Beddow to talk to this—to talk to the man who turned out to be George Burnett.

Q. You went to Atlanta on February 20th, I believe you said?

A. Yes.

Q. And you went to the Heart of Atlanta Motel?

A. Yes.

Q. You didn't see anyone, I assume, that evening in connection with this story?

A. No, I didn't. I didn't get there until about midnight.

Q. The following day you met with Mr. Beddow?

A. Yes. Mr. Beddow and an associate of his named Fred Boteger, B-o-t-e-g-e-r.

Q. B-o-t—

A. -e-g-e-r.

Q. Was he introduced to you as an associate lawyer?

A. As an associate.

Q. Do you know—

A. He wasn't a lawyer. He was a private investigator, I believe. But he was introduced as an associate.

Q. He was a private investigator and came over with Mr. Beddow from Birmingham to meet and discuss with you the story about this telephone call?

[fol. 499] A. Yes.

Q. What time on the morning of the 21st did Mr. Beddow get in touch with you?

A. I would say about between 9:30 and 10:00.

Q. Was he staying at the same motel?

A. No. He and Mr. Boteger had just arrived from Birmingham. They flew in that morning.

Q. He contacted you first by telephone?

A. Yes, he called me and I said that he was to go to the office of Pierre Howard,—



Q. And you—

A. (continuing) —in the Healy Building.

Q. And you later did go to Mr. Pierre Howard's office in the Healy Building?

A. Yes, I did.

Q. That was on February 21st?

A. That was on that morning, yes.

Q. Who was in Pierre Howard's office when you had your meeting there?

A. The three of us, Beddow, Boteger and myself, and Pierre Howard, and we were joined shortly after by Milton Flack.

Q. Was that the first time that you had met Milton Flack?

A. Yes.

Q. How long was Milton Flack in the office while you were there?

A. He arrived a few minutes after I got there, and he was there, I would say, all of the rest of the time that I was there. We had our—we ate lunch in the office. We sent down for sandwiches.

Q. What was the nature of the conversation that took place in Pierre Howard's office with Mr. Flack?

A. Pierre Howard and Milton Flack recounted the story that George Burnett had told them.

[fol. 500] Q. Howard and Flack were recounting the story that Burnett had told to them?

A. Yes, and then filling me in on some background on Georgia football and the situation there as they knew it. Some of the conversation was casual and some directly pertained to this matter.

Q. You got there you say around 10:00 o'clock in the morning?

A. Yes.

Q. And you remained there for the remainder of the day?

A. No, we were there until after lunch. We put in a call to George Burnett to get him to come—

Mr. Schroder: Just a moment; you read that wrong.

Mr. Lockerman: "No, we—"

Mr. Schroder: "They put in a call—"

By the Witness:

A. They put in a call to George Burnett to get him to come, and just about the time—just after Pierre Howard called Burnett—no, just before Howard called Burnett, Burnett had been called by Cook Barwick and had been asked to come to Barwick's office in Atlanta, I believe in the Federal Building, and there talked to Bernie Moore, who was the commissioner of the Southeastern conference.

Q. Let me get the sequence a little clearer in my mind. You arrived in Atlanta on the evening of February 20th; is that correct?

A. Yes.

Q. On February 21st, at 10:00 a.m., you went to the office of Pierre Howard, pursuant to instructions given you by [fol. 501] Attorney Beddow from Birmingham?

A. Yes.

Q. Around 10:00 a.m.?

A. Yes.

Q. At Pierre Howard's office that morning—

A. Yes.

Mr. Schroder: Cody, I am not going to read that part.

Mr. Cody: Skip it; it is okay.

Mr. Schroder: All right.

By Mr. Schroder:

Q. During that morning meeting attended by the people whose names I just listed, were you considered to be the representative of the Curtis Publishing Company?

A. Yes, I was.

Q. Did you discuss a price that Curtis would pay for the story?

A. I did. It was to be done through Pierre Howard acting as agent for Mr. Burnett.

Q. Did Milton Flack engage in the conversation that related to the purchase price of this story?

A. Yes, he did.

Q. Was there any negotiation or negotiating done with reference to the price or was it just fixed, and that was it?

A. No. I said the Post was willing to pay \$2,000 for it.

Q. What was the counter-offer?

[fol. 502] A. There was none, but both Milton Flack and Pierre Howard thought he should get more, especially if this were an exclusive story. So then I said I would—I was prepared to offer him \$2,000 just for George Burnett's affidavit in this case; that if the story appeared in print, was published and was a Post exclusive, then, in addition, he would get \$3,000 more, after the date of publication.

He was to get \$2,000 immediately, which I believe was wired by Davis Thomas after I told him it was all right to go ahead, and it was wired to Pierre Howard.

Q. Was that check made payable to Howard?

A. I believe it was to Howard. Now, I never—

Q. You never saw the check?

A. No.

Q. Was there any discussion as to a payment by Curtis by Pierre Howard?

A. No, none whatsoever.

Q. Was there any discussion as to any payment by Curtis by Milton Flack?

A. No.

Q. Do you know whether or not Curtis has paid Pierre Howard?

A. No, I don't believe they have. So far as I know. I have never heard. Later, I believe, and you will have to check this, I believe Milton Flack was paid \$500.

Q. Was that discussed at the meeting that you attended that morning?

A. No.

Q. On the 21st?

A. No.

Q. I believe you said at the time you were in Pierre [fol. 503] Howard's office on the 21st that Burnett was at Barwick's office?

A. He was to go there. Apparently he was in the suburbs of Atlanta on business and a call was left for him some time that morning, but he was out—

Q. A call was left for him?

A. For Burnett.

Q. Do you know where?

A. I don't know where.

Q. Do you know who made the call?

A. Pierre Howard.

Q. While you were there?

A. Yes. I believe he called the secretary and said, "See if you can get George Burnett," as I recall it. I am not sure.

Q. Was it made clear to you that this meeting was being done with the approval of George Burnett?

A. No. There was no—when I spoke to Milton Flack there was still some doubt as to whether he would—wanted to cooperate.

Q. Who, Burnett or Flack?

A. Burnett.

Q. Give me the substance of that conversation.

A. He said that he was very upset about this, George Burnett was very upset about this matter; that he had been worried about it for a long time, and the whole thing had been on his mind, and he was reluctant to get into it, even from the start. And he said when the thing had first been brought up, he had been brought to Johnny Griffith, the coach at Georgia, and he had asked Griffith to try to leave him out of it, which, of course, was impossible once Burnett reported the story.

Q. This is Flack's story to you?

A. Yes.

[fol. 504] Mr. Schroder: Look's like we are getting into hearsay. I didn't notice it. Flack was telling him something, but—

Mr. Cody: What page.

The Court: Sir?

Mr. Schroder: I don't know; some of it—

Mr. Cody: Okay.

Mr. Schroder: I haven't started skipping yet. Some of this I am getting into hearsay.

The Court: If you can agree to it, it is all right with me.

Mr. Schroder: It would not be proper to read it.

Mr. Schroder: The next questions seem to be all right.

By Mr. Schroder:

Q. Go ahead.

A. And so then Mr. Beddow said, well, the best thing was to get Mr. Burnett in here and see what he wants to do.

Q. So that insofar as you knew, the story really wasn't [fol. 505] available when you went to Atlanta?

A. I had thought it was, but when I got in there there apparently was some doubt about it.

Q. Later that afternoon or later that day you say Burnett came to Pierre Howard's office—no?

A. No.

Q. Excuse me.

A. No. We had lunch there, and we just sat around for a while and then finally we understood that he was in—George Burnett was in talking to Cook Barwick and Bernie Moore, and we decided to go back to the Heart of Atlanta Motel, and Boteger and Beddow and I went back.

We waited a while and then Milton Flack, I think, had some business or somebody to see so he left for a while and then he came in, and then later in the afternoon, I believe it was after three o'clock, when Pierre Howard and George Burnett came over.

Howard—Burnett had apparently come from Cook Barwick's office, picked up Pierre Howard.

Q. Then he came on out to the motel?

A. Yes.

Q. Originally Flack had gone to the motel when you left Howard's office, with you, and then he left—

A. No. Flack didn't come originally. I think he had something to do.

Q. But then he did come to the hotel?

A. Then he arrived before—

Q. Before Burnett and Howard?

A. Yes.

Q. What was the nature of the conversation that took place in the motel when Howard and Burnett arrived?

A. We were introduced to him and he started off by telling about the meeting which had taken place that day [fol. 506] in Cook Barwick's office. He seemed to be upset about what had happened to him there.

Mr. Schroder: Just a minute, Mr. Witness; getting back into hearsay now. I am reading on Page 24 now, Mr. Cody.

Mr. Cody: What line are you on?

Mr. Schroder: I am on line 10 where the paragraph begins there where it says, "He said," and it goes into some conversation; I am going from there, Mr. Cody, over to the top of Page 26.

By Mr. Schroder:

Q. Now, when Burnett and Howard came to the motel room there in Atlanta where you were, this was what was related to you by Burnett and Howard that you have just testified to?

A. Yes. Burnett did almost all the talking once he arrived in the room.

Q. Did you, as representative of the Curtis Publishing Company, come to an agreement with Burnett as to the publication of the story and the price that Curtis would pay him?

A. No.

Q. That had already been determined in Howards office?

A. I had talked with Howard about the Post offer before and then it was agreed that I would see Howard next day in his office after I had talked to Burnett.

[fol. 507] Q. Was the amount of money to be paid to Burnett discussed with Burnett?

A. No.

Q. Did he know or indicate to you that he knew?

A. It was never mentioned between us. I handled all that with Howard.

Q. You assumed that the client knew what the lawyer was negotiating?

A. I assumed, but I didn't know.

Q. You did take an affidavit from Burnett?

A. That was the following day.

Q. The following day?

A. Yes. He went through the whole story. That was this afternoon, in—Thursday afternoon, in the Heart of Atlanta Motel.

Q. Who was—

A. When he got through talking, we had a drink and we had to wait a while because Mr. Beddow and Mr. Boteger were going back to Birmingham on the plane and they were waiting for their plane and we had a drink and Mr. Howard was going somewhere and then I stayed with—the five of us left and then finally Mr. Boteger and Mr. Beddow left and I said I would call them in the morning in Birmingham.

Q. For what purpose?

A. To talk to them about the whole situation, what he had heard. Because we were not—we were never alone after we met Mr. Burnett and I wanted to get their reaction, et cetera.

We stayed—well, it was after dark when they left for the airport, and afterwards I went out to dinner with Flack and Burnett. They took me to a place in Atlanta to eat.

[fol. 508] Q. When was it that you and Burnett were alone? Was it that day or the following day?

A. It was the following day. Well, I am just trying to think—yes, I was alone with Burnett the following morning. On Friday morning, which was Washington's Birthday, I went to—that was the 22nd—I went to Pierre Howard's office.

I got there before Burnett, and then I talked to Howard and Howard—Howard and I made the final arrangements on the story, and I said that money would be wired by the Post to Pierre Howard.

Q. Was Burnett there during that conversation?

A. No. Burnett came in and Howard said, "Now, you will want to talk to him alone, to go over any questions that you have in your mind."

So we went into another office in the back where the two of us talked alone for a while.

When that was over I went out and Pierre Howard sent in a girl who was apparently a notary public, and I left for lunch, and he said while I was gone—while I was gone he and the girl and Burnett would prepare his affidavit, and she took down his story, and I was to come back later in the afternoon and pick up the affidavit.

Mr. Schroder: Who is following the deposition?

Mr. Cody: Give us the page.

Mr. Schroder: Page 29 at the top is hearsay and I am skipping it. That is the first question, on down to line 23. I am beginning reading on line 24 on Page 29.

[fol. 509] By Mr. Schroder:

Q. Now, when you first met with Messrs. Kahn and Thomas in New York, before you went to Atlanta, and they pointed out to you the purpose for them calling you, did you make notes during that conversation?

A. I took a couple of notes, just a couple of names, the name of the motel where I was to go, et cetera.

Q. Did you take any notes at that time having to do with the substance of the story?

A. No, I didn't.

Q. When you met with the people that you said you met with in Pierre Howard's office the first time, did you make notes as to what was said in that conversation?

A. I took very few notes then. I may have written down an unfamiliar name. I would say most of the notes that I



took were the next day when I was alone with George Burnett.

Mr. Schroder: The next one, Mr. Cody, is line 16 on Page 30; the question and answer both would be hearsay. I am reading beginning at line 24 at the bottom of the page. I am just skipping one question and one answer.

By Mr. Schroder:

Q. You didn't make any notes to amount to anything during that conversation?

A. No.

Q. Or what was said—

A. No, I wanted to get it from him, most of it.

Q. When they were filling you in on Mr. Burnett's background at that time did they indicate to you—

A. I did—I will say this: I did take notes on some of [fol. 510] the names of people. I took notes on some of the names that he had overheard, Burnett had overheard mentioned during this telephone conversation.

Q. Did—when Flack and Howard were telling you about Burnett's background, did they tell you about the matter of the bad checks that he had written?

A. Yes.

Q. You knew that then before you heard it from Burnett?

A. Yes.

Q. Did they tell you how many there had been?

A. Pierre Howard said two.

Q. How many did Flack say?

A. He said two.

Q. You knew that, then, before you met Burnett?

A. Yes.

Q. When Burnett subsequently came to the motel room that afternoon with Pierre Howard, and you had a general discussion among all of you about the meeting in Barwick's office and I suppose—

A. Yes, Burnett did almost all the talking then.

Q. Did you make notes of what was said in the conversation?

A. Very few. I remember once I interrupted him to write down the number that he had dialed that day, when he was hooked into this long-distance call.

It was Jackson number, I believe, which I used in the story, and I had him repeat that.

Q. On the occasion of Burnett's visit to the motel room on the afternoon of February 21st, did he have these so-called notes with him that he said he took?

A. No, he never had the notes, at any time during the—we were never able to get the notes at any time during [fol. 511] the entire preparation of the story.

He had thought that he could—let's see—he said that he was going to try to get them on Friday. I called Pierre Howard—I went to see Pierre Howard on Friday morning, the 22nd, and they still didn't have them and they were trying to get these notes and they were not able to get in touch with Cook Barwick and Barwick wasn't coming into his office that day, because it was Washington's Birthday, and I said that I would like to get the notes, if possible, to check dates and a couple of names that were mentioned, et cetera, and see everything that I could on this, and they promised to keep trying.

Howard said if he didn't get them before I left Atlanta, that he would send them, rush them to me by air, the first part of the following week.

Q. Were they rushed to you by air?

A. I never got them.

Q. You have never seen the notes yet?

A. No.

Q. Then you wrote the story without benefit of having seen the notes?

A. That's right. I had to depend on Burnett's recollection, the recollection of Flack and Howard from what Burnett had told them about the notes.

Q. Did anyone at any time indicate to you that anyone else had overheard the conversation that Burnett said he overheard?

A. When I was here in New York, I had been told that there were two—possibly two people there, but we didn't know how many had overheard the conversation. There was a man named Carmichael mentioned.

[fol. 512] Q. That he was there when the call was intercepted?

A. Yes.

Q. Did you—

A. When I spoke to Burnett and Flack and Howard about it, they said that Carmichael was a friend of Wally Butts and didn't want anything to do with this case, didn't want to be brought into it.

Q. Did you get in touch with this Carmichael?

A. No. They said that he positively didn't want to talk.

Q. Did you interview anyone other than Burnett and Flack and Howard?

A. No.

Q. Did you, after you came back to New York, ever interview anyone in connection with this story, other than Furman Bisher?

A. No. When I came in on Monday then it was decided that Furman Bisher would complete the interviewing on the story, that he would have a better—he knew most of these people and would have a better chance to get us the information than I would have.

Q. And you came back to New York you say from Atlanta or did you say, on Monday?

A. No. I came back on Saturday. I came into the Post office on Monday morning but I flew back on Saturday afternoon. On Saturday morning—I had stayed over in the hopes of getting these notes. They were never released by the university to us.

Let's see. On Saturday morning, I called Pierre Howard at his home, and there was still no chance to get the notes. I called Milton Flack and he and George Burnett said they would drive me to the airport that afternoon.

[fol. 513] So that morning I went to the public library in Atlanta and I looked over—I went through all the news-

papers for a couple of weeks before the Georgia-Alabama opening game last year and for a few days afterwards.

Q. Did you make notes of what the newspaper articles said?

A. Yes.

Q. What was the substance of the articles in the newspapers that you read prior to the game and after?

A. There was some—I am trying to think—the substance of it was that Georgia was hopeful. Johnny Griffith said that they knew they were playing a strong club and they had a lot of hope.

They had some good, young players, a lot of sophomores on the team that he had high hopes for, but that Alabama was favored by from 14 to 17 points. And Bear Bryant said he expected a very close game.

Q. Did you use any of those articles in your publication of the story?

A. Yes, I did, yes.

Q. Were the names of the Georgia football players prominently mentioned in those articles?

A. Some were. I went through and copied down the names of all their leading players who were mentioned at any time during the two weeks before the game, for spelling, et cetera, and then their position.

Q. Were the names Babb and Rissmiller mentioned prominently in the newspapers—

A. Yes.

Q. (continuing) —prior to—

A. Yes.

Q. Ever since practice started on September 1st?

A. Well, their names were mentioned. I copied them [fol. 514] down. I don't remember how many times. When I would see a player who would play a prominent part in the Georgia team, I wrote down his name with his position.

Q. Were the names Rissmiller, Babb, Rakestraw, Blackburn—

A. I don't remember Blackburn—

Q. Woodward—

A. Yes, Don Blackburn.

Q. Those names were mentioned prominently—

A. I don't remember Blackburn so much, but apparently he was mentioned, because I have it.

Q. When did you first hear Blackburn's name?

A. I guess there, because—

Q. You mean in the newspaper?

A. In the newspaper.

Q. What names were mentioned to you by either Howard, Flack or Burnett when they were relating what Burnett was supposed to have overheard?

A. Babb and Rissmiller and Rakestraw.

Q. Now when you came on back—

Mr. Schroder: Evidently it was withdrawn.

By Mr. Schroder:

Q. Flack and Carmichael took you to the airport?

Mr. Lockerman: I think it says "Flack and Burnett".

Mr. Schroder: The question—line 14.

[fol. 515] Mr. Lockerman: Oh, yes, yes.

By the Witness:

A. No.

Q. Flack and Burnett took you to the airport?

A. Yes.

Q. Was the forthcoming story discussed going out to the airport by the three of you?

Mr. Schroder: Well that is again—that is on line 21, Cody, on Page 37.

Mr. Cody: I think—go ahead; that is all right.

Mr. Schroder: Sir?

Mr. Cody: Go ahead.

Mr. Schroder: I am looking now at line 21 on Page 37 where it says "We were talking"; that is hearsay, of course, which would also apply to Page 38—May I address counsel just a minute on some of this?

The Court: Yes, sir.

Mr. Schroder: Mr. Cody, I am going on over to Page 40, if it suits your convenience and start on line 14.

[fol. 516] Mr. Cody: Page 40?

Mr. Schroder: Yes, sir.

By Mr. Schroder:

Q. Now, when Bisher came to New York on that Monday, I believe you testified earlier that he was the one that got in touch with the Post?

A. That's right, sir.

Q. And he offered his services to the Post?

A. Yes.

Q. They accepted his services?

A. I don't know on what basis what was done, whether he himself wanted to write the story. He didn't know at any time that I was in Atlanta.

Q. Well, did he indicate to you or to the Post officials in your presence the reason for his getting in touch with the Post officials when he came to New York on that Monday?

A. Yes he said that he had what he—I don't have the exact words, but something about having a very important story about Georgia football.

Q. Obviously, he didn't know up to that time that the Post already had the story?

A. Apparently not.

Q. Did he indicate to Mr. Kahn in your presence when you all met at the Manhattan Hotel, that he was still interested in writing the story or selling the story or giving the story to the Post?

A. Well, apparently he and—you see, I don't know all the details—apparently he and Roger Kahn—Mr. Kahn apparently told him before we met that I had been in Atlanta, so that the Post had the story.

[fol. 517] Q. So that when you met with him he already knew that the Post had the story?

A. Yes.

Q. And then he assumed the role of assisting you?

A. Yes.

Q. By making field investigations or whatever you writers call them?

A. Yes.

Q. In Georgia for the Post?

A. Yes.

Q. Have you seen Furman Bisher since that meeting in the Manhattan Hotel?

A. No.

Q. Have you talked with him over the phone or communicated with him in any other manner?

A. Yes, he called me later in the week.

Q. From Atlanta?

A. Yes.

Q. Later on in the week of the Monday that you met here?

A. Yes.

Q. What was the substance of—

Mr. Schroder: Well, I guess it would be all right to read that part; it is in the article.

Mr. Cody: Yes.

By Mr. Schroder:

Q. What was the substance of that conversation?

A. He told me that he had talked to people at the University of Georgia. He had been—he gave me some quotes from a couple of football players, from the trainer, Sam [fol. 518] Richwine, and the coach, Johnny Griffith.

Q. Is that the last time that you have had any communication with with Mr. Bisher or have you had subsequent conversation with him?

A. That was the last time.

Q. When the story had been more or less—

A. He was,—I believe in between, I believe he was in touch with Mr. Kahn.

Q. Giving Mr. Kahn additional information about the story?

A. I don't know. He talked to him I know because Roger Kahn told me that he would call me on Friday.

Q. I am going to jump ahead just a moment. When the story was almost completed, did you then or at any other time send it to Mr. Bisher for corrections or for whatever he wanted to do with it?

A. I sent him a copy of the story, the following week, which would be a week after I saw him. The week after that Monday that I saw him at the Manhattan Hotel.

Q. That would be the first week in March, I assume?

A. Yes.

Q. You sent Mr. Bisher a—

A. I sent him a copy of my story, as I had written it for the Post, which he was to have for his files whenever the story was to be written in Atlanta, for the newspapers.

Q. Did he make any corrections?

A. No.

Q. Or suggestions?

A. No.

Q. After the story had been completed?

A. No.

[fol. 519] Q. Had you asked him to make any corrections or suggestions if any occurred to him before the story was published?

A. No, I sent the story to him, I say that week, and I have not heard from him again.

Q. Mr. Bisher then had the story in final form during the first week in March which was approximately two weeks before it hit the newsstands?

A. Yes.

Q. Now, Mr. Graham, will you kindly refer to your notes, because I want to ask you some questions about the article itself.

A. Yes.

Q. Mr. Graham—

Mr. Schroder: May I address counsel, please?

The Court: Yes, sir.



Mr. Schroder: Please look ahead so if there is any part you want to object to.

Mr. Cody: Okay.

By Mr. Schroder:

Q. Mr. Graham, I am looking at Page 80 of the March 23rd issue of the Saturday Evening Post. The title of the story is "The Story of a College Football Fix." Below that in smaller letters is the following: "A Shocking Report of How Wally Butts and 'Bear' Bryant Rigged a Game Last [fol. 520] Fall." And below that is "By Frank Graham Jr."

Now, is that language which I just read, is that yours or is that someone else's?

A. That was the editor's.

Q. You had no title on your story?

A. I think I just put "The George Burnett Story," or—I believe that was it.

Q. Now, looking again at Page 80, there is an insert in white that read:

"Not since the Chicago White Sox threw the 1919 World Series . . ." and there is no need for me to quote the full quotation there; and ends: "For now we can only be appalled," and the concluding two words are: "The Editors." Did you have anything to do with the preparation of that insert?

A. No.

Q. The first time you saw that, I assume, then, is when the magazine hit the stands?

A. I saw it in print, but it was before the magazine was—

Q. What you writers call that?

A. Well, it was on a sheet which had been marked up, ready to go to the printer.

Q. Now the photograph on Page 80 and the three photographs on Page 81—well, I will say on the next page, because mine does not show a number—

A. Yes, it is 81.

Q. (continuing) —and the two photographs on Page 82, and the one photograph on Page 83, do you know the source of those photographs?

A. No, I don't.

Q. Were they sent to you?

A. No.

Q. You don't know, then, where Curtis got them?

[fol. 521] A. No, I don't.

Q. Did you finish them to them?

A. I believe on this one, the one of George Burnett, on Page 80, a photographer—

Q. 81, is it not?

A. 81, pardon me. A photographer on assignment for the Post took that picture. I don't know his name.

Q. While you were in Atlanta?

A. No.

Q. Or at some subsequent date?

A. At some subsequent date.

Q. You don't know, then, where the Post got the other pictures that I have referred to?

A. No, I don't.

Q. You did not furnish them?

A. No.

Q. On Page 81, the first three paragraphs of the article, what was the source of your information that you put forth or set forth in them?

A. George Burnett.

Q. Do you have the notes?

A. No. Much of this I took from his affidavit, and, for instance, I did write down the number. Much of the story, of course, was taken directly from the affidavit which he signed.

Q. The fourth paragraph, beginning with—beginning with “Like most males over the age of four . . .” and ending with “. . . football history,” what was your source of that information?

A. The first two sentences were from George Burnett himself, and—

Q. Did he, for example—you said the first two sentences were from George Burnett.

Did he refer to the two coaches as being “collossi”?  
[fol. 522] A. No, that was my word. He mentioned two of the biggest names in Southern football, something like that.

Q. Is there any other language in that paragraph which is your own and not George Burnett’s?

A. I would say the way it was phrased, like most males over the age of four in Atlanta.

Q. Burnett did tell you, then, that he was a football fan?

A. Yes, he said he had always been interested in football. He told me that he had played football in college—in high school in Texas.

Q. Did he indicate to you that he was interested in football in the State of Georgia?

A. Yes, he said, like everybody else, he was interested in the games, knew these people. I had known Wally Butts from afar. I had only met him once. But he was interested in these people.

Q. Did he indicate to you familiarity with the players’ names?

A. No, no, not especially. We were talking about it at one time and he said it was a young team. But he was not familiar with all the names.

Q. Did he indicate to you that he had seen the University of Georgia play any football games the previous season, being 1961?

A. No, he didn’t say.

Q. Did you ask him?

A. No.

Q. The next paragraph beginning “After a brief wait . . .” and the next two sentences after that paragraph, or the next three sentences after that paragraph, which include quotations, they were taken by you from the affidavit?

A. Yes.

[fol. 523] Q. Not from any notes that you had?

A. It may have been partly from the notes. It was partly from the notes and partly from the affidavit.

Q. Let's move on to the next paragraph, which I shall read:

"As Burnett listened, Butts began to give Bryant detailed information about the plays and formations Georgia would use in its opening game eight days later. Georgia's opponent was to be Alabama." Now, what detailed information did you have in mind when you wrote that particular language?

A. What he had told me. He said: "Whereupon, Wally Butts proceeded to give detailed information pertaining to the University of Georgia's offense and defense to be used in the Alabama-Georgia game the following week."

Q. Did he tell you what information he had when he used that language?

A. He said: "At regular intervals Bear Bryant would ask Wally Butts certain questions pertaining to defensive and offensive maneuvers. Wally Butts would either ask him in detail or—

Mr. Cody: "Answer him".

By the Witness:

A. Wally Butts would either answer him in detail or would say, 'I don't know about that, I will have to find out.'"

Q. Go back—excuse me. I thought that you were through. Are you reading from your notes?

A. No, from the affidavit.

Q. Did Burnett at any time tell you the particulars of the questions which he said that Coach Bryant asked Coach Butts?

[fol. 524] A. He said here, for instance: "A question in particular that Bear Bryant asked was, 'How about quick kicks?' and then Wally Butts answered by saying, 'Don't