

is not a rich school from the standpoint of the gate receipts, and we have had a problem for getting enough dollars for the number of scholarships permitted by the Southeastern Conference. The Southeastern Conference permits 140 scholarships, basketball, football. At Georgia I was chair-[fol. 988] man of the Scholarship Committee from '53 through '56, and in many instances we knew when we started the season that we could sign 140 boys, that we had sufficient dollars for that, and, of course, the SEC didn't mind how many you signed as long as you didn't sign over 140, but we also had to take into consideration our dollar problem, that we would set up definite schedules that if we signed up 140 and entered them in the fall quarter, we'd have to lose ten of them by January, the winter quarter, because we would not have the dollars to pay for 140 scholarships at the winter quarter registration, and we'd have to lose another ten by the spring quarter and get down to 120, so that we had the constant problem of trying to recruit and fit our personnel inside the dollar budget, whereas many schools in the Southeastern Conference had no dollar problem and simply got the 140 boys, and that was it.

Q. Did that result in some sort of feeling of some sort between Coach Butts and some of the faculty members?

A. Well, I think definitely he had a running battle over a period of years with them on this question of—he wanted to win football games, and, of course, they wanted to stay within the budget, and it was a problem, I think, between he and Mr. Hickman and J. D., and maybe one or two other members of the Athletic Board, the problem of trying to get enough football players on the dollars that you had.

Q. Did you find that you, as an assistant coach there, were also suffering from that same situation?

A. Well, I think anybody who was coaching at Georgia realized that they were competing with the giants of the SEC; they were suffering from the limited amount of dollars available.

[fol. 989] Q. And whose responsibility was it to put a winner on the field?

A. The head coach.

Q. Coach Butts?

A. That's right.

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Cross examination.

By Mr. Cody:

Q. Mr. Hartman, I understood you to—I understood you to say that Georgia had a play which you—which you called the 029, which is the one that you referred to?

A. I testified a moment ago about 29-0, which is a play enumerated.

Q. Did Georgia have an 029 play?

A. They have a current 029 play. It is a different play altogether. 29-0 is a pass, and 029 is the—

Q. There is a difference between the two?

A. Yes.

Q. Two different plays?

A. Two different plays altogether.

Q. You mentioned a moment ago something about Coach Butts' dissatisfaction with some of the coaches procedures down there. Did you ever hear him say they didn't have anybody on the coaching staff that was SEC material?

A. Not to me; no, sir. In fact, he was very emphatic, he thought they were good enough to succeed, given time.

Q. What was the nature of the criticism that you heard him make of Coach Griffith?

A. Well, his chief criticism was about the techniques. [fol. 990] It wasn't necessarily of Johnny; it was the whole coaching staff; and I think he felt like maybe Johnny, because of inexperience on the side line, was not able to recognize what was going on.

Q. Would that include Coach Trippi?

A. Yes. At times he was critical of me while I was coaching.

Q. You have been gone from there quite a while?

A. Several years; yes sir. But in football he is a perfectionist, and many a time he has told me to get the pass defense right, and I have heard him—

Q. But, as a—

Mr. Schroder: Let him finish the answer.

A. (By the witness) I have heard him say, I don't know how many times, from a technical, professional standpoint over there that he wasn't critical of it.

Q. Don't you know, Mr. Hartman, the extent of that criticism has been such that the Alumni of the University have been generally talking about it?

A. To my own knowledge I have never heard him say any critical—

Q. How about the Alumni?

A. People have told me; yes.

Q. Did you know Coach Butts had made speeches in which he openly was caustic about this entire coaching staff?

A. I have been told that.

Q. Haven't you been to two or three meetings yourself where that subject was discussed?

A. Mr. Cody, I don't ever recall going to a meeting and hearing Coach Butts talk, in the last two years, anyway; I don't ever remember attending a meeting in which he [fol. 991] had made a speech, except the Athens Touchdown Club in Athens, and he was not critical at that time.

Q. In the travels you make over the state in connection with your work for the University, and you do some Alumni work?

A. Yes. I don't do any paid work for the University.

Q. I understand. Isn't it true that there is hardly a place that you have been in in the last two or three years where this subject was not discussed?

A. No; that is not true. Hardly a place, I have been some places where it has been discussed.

Q. Well, how many places?

A. I couldn't say.

Q. But it is—

A. I go to many places every day.

Q. But it is a good many places, though, isn't it?

A. That is the report I have been told.

Q. Now, do you have any idea, Mr. Hartman, when this so-called criticism started, can you give us any date or an estimate of it? I am not trying to pin you to any exact date.

A. I really first heard about it seriously, in any quantity, probably last fall, late in the fall.

Q. That was after he became athletic director?

A. Yes, sir; about eighteen months after he became athletic director.

Q. In Mr. Barwick's office when you met there with these representatives of the University, is this a statement that was subsequently made by you concerning that meeting: "My comment after reading the notes—"

Mr. Schroder: Where are you reading from, please, sir?  
[fol. 992] Mr. Cody: On Page 42.

Mr. Schroder: Thank you. Just a moment; let me catch up with you.

By Mr. Cody:

Q. "My comment after reading the notes was that I didn't see how a man could overhear this in a telephone conversation, not being familiar with football terminology, and be able to write such specifics down there."

A. I made that.

Q. Then by that you mean that these notes do not contain some reference to specifics?

A. They contain reference to specifics in all T-formation football that is played in the United States.

Q. Mr. Hartman, from your experience in football, haven't you found that the important—one of the important things about an opposing team is when they play to use a particular play or formation, not what the formation is but when they intend to use it; isn't that true?

A. Well, I would think prior to a ball game I would be more interested in their pattern which is established by review of movies and things of that nature; in other words, if Joe Doaks came to me and said, "Georgia Tech is going to shift on you in the first ball game," that would be interesting, but I do know that Georgia Tech's basic bread-and-butter plays are the sweep, the quick pass to the end, and four or five other things that I ascertained statistically.

Q. Isn't it true, Mr. Hartman, in modern football there [fol. 993] are only about eight or nine formations in all; isn't that true?

A. Are you sub-dividing the T-formations into the various slots, flankers and frys?

Q. That would be a various of each formation, but basically there are only about eight or nine formations.

A. As practiced in American football, there is not but one now, to any degree, and that is the—Tennessee is different—it is a single wing back. UCLA—

Q. I mean, formations used by different teams, basically, there are only about eight or nine?

A. I have never really counted up the number in the T-formation. If you are subdividing the T-formation, is that what you are doing?

Q. I can't testify. I am asking you. I can't help you on that.

A. Well, ask your question again.

Q. I am asking you if in modern football that there are only about eight or nine basic formations?

A. I would say there are not but about three.

Q. Now, when you—when you are training a team for the first game of the season, would it be helpful to an opponent to know what they were training for, which formations they were training for?

A. Well, if they had specific information on that it might be, although they would probably already know, because I would have to train them for the first game, the same stuff I used in the spring practice game. I can't teach them in two weeks—

Q. You wouldn't be able to teach a young team, by the first game of the season, all the formations that you intended to use during the entire season; is that a fair statement?

A. Now, you and I have got a different conception of [fol. 994] "formations." I would say that the T-formation is one formation, and that in spring practice you would install your basic task series your going to use, your basic slot series you are going to use, your basic trap series you are going to use, and your basic sweep series you are going to use, and your basic passes, so that the stuff you used in your spring game would be the stuff you'd have to use in the first game, especially when it was that close, that early.

Q. Now, Mr. Hartman, when Mr. Schroder went over with you the nature of the notes—

A. Uh huh.

Q. —which you have in your hand there, or a photostatic copy, sort of a blown up copy of them, did he go over in detail with you the testimony of Mr. Burnett which enlarges on the information in those notes?

A. I don't believe I have ever discussed with Mr. Schroder anything about the notes.

Q. Well, have you discussed it with anybody in his office?

A. I don't recall seeing any blown up things. I saw these, and I saw the photostatic copies.

Q. Who have you discussed these notes with?

A. With Mr. Bondurant, primarily.

Q. How about Mr. Schroder's office; who, in that office, have you talked to?

A. I think I talked with Mr. Smith and Mr.—

Q. Lockerman?

A. —Lockerman about several months ago but not in much detail.

Q. Did they show you the deposition that had been given by Mr. Burnett?

A. No.

Q. What was this you said a moment ago about the

[fol. 995] statements made by Coach Butts that were confidential? Will you repeat that? I didn't—

A. I said that in our many discussions about football, we discussed a lot of teams, and when he was talking about Georgia in recent months, he always said, "Now, of course, I couldn't go out and say this to the man on the street because they wouldn't—they don't know what we are talking about. They wouldn't realize the implications of this thing, and I would be severely criticized." That was his implication, that if he went out and told that to the man on the street—

Q. Do you—

A. It is a very technical discussion. You can't—all you have got, you look at a football team playing, you come back subconsciously with definite implications to you what that football team does well, and, naturally whether it be Georgia or Auburn, or whoever it may be. And I remarked to him on many times the way to beat Georgia was to run wide, run off into the flat. Nothing traitorous about that. I have spent a lot of time out there on the field for Georgia, but that is just a true thing. I think I told Dr. Aderhold that last fall. It is just a sad situation that is brought about by many things, but that is the type of criticism.

Q. When you were talking about that criticism you were discussing—you were discussing his resignation in the early part of 1961, were you not?

A. Coach Butts' resignation?

Q. Yes.

A. No. We were talking mainly about the '61 football season, during the course of the 1961 football season and during the course of the 1962 football season as they were played. You couldn't criticize in '61 the problems of the [fol. 996] football season of '61; it hasn't been played.

Q. Let me ask you this question, then. Do you recall when your deposition was given before a Court Reporter on June the 11th—

Mr. Schroder: Page, please.

Mr. Cody: On Page 29.

By Mr. Cody:

Q. —that this question was asked you, and I want to ask you if you gave this answer. “Did he indicate to you”—meaning Coach Butts—“any bitterness over his resignation or resentment about it?” And you gave this answer: “Well, I think he indicated that insofar as the four people that we have been discussing, that he felt like that they were pretty less than loyal to try to use those tactics to get him out.” Was that your answer to that question?

Mr. Schroder: I don’t remember the witness having testified to anything contrary to that today.

The Court: Wait just a moment; what is that, Mr. Schroder?

Mr. Schroder: I said I do not remember the witness having given any testimony in that area today. I don’t know the purpose of reading the deposition to him. Ordinarily [fol. 997] it is to discredit the witness or prove contradictory statements previously made by him.

The Court: I think he had him on cross-examination, Mr. Schroder. I think he can go into statements he made previously concerning his termination as athletic director. I will let him answer.

The Witness: Mr. Cody, that is a true statement, but it didn’t involve any members of the coaching staff or the university. They were four outside individuals.

Mr. Cody: I see.

By Mr. Cody:

Q. Coach Hartman, did you testify that while you were coach on Coach Butts staff at Georgia that you had a play described as the 29-0 series?

A. 29-0 was an abbreviation. It is 29 over; that is the 29-0 referred to here.

Q. Did you know that that name or description of that play is not being used by the present Georgia coaching staff, that is, was not used in 1962?



A. Are you asking me whether I knew that 29 over was used in 1962?

Q. Right.

A. I don't know. I don't recall seeing it, because it involves a man in motion, or it recalls a man stationed wide as a flanker where the quarterback—where the quarterback gets behind the center, takes the ball like that and [fol. 998] throws to a flanking back who is out about twelve yards or to a man in motion.

Q. Did you know that none of the coaches, present Georgia coaches who have testified in this case have recognized this description, but that now you recognize it as a play used by Coach Butts while he was the head coach at Georgia; is that your statement?

A. No; I didn't know that. All I know is what 29-0 means to me.

Q. I want to ask you this question now, Mr. Hartman. At this meeting that you attended in Mr. Barwick's office, did Mr. Barwick have with him at that time an affidavit signed by Mr. Burnett?

A. I would say if he did I don't remember seeing it.

Q. Do you know whether or not he acquainted those present at that meeting with the substance of that affidavit?

A. I believe he did, without revealing the name, but I don't think he ever showed it at that meeting.

Q. Will you state to the Court whether or not Coach Butts ever denied at that meeting that the conversation referred to in that affidavit did not take place?

A. The only thing I remember him saying about that at all was the fact that he had made many telephone calls to Bryant, and that if a person overheard a telephone conversation that he had made, that it could—he could have misconstrued some reference to football terminology. The only thing that he denied was that he had ever done anything to hurt Georgia, and he repeated that several times.

Mr. Cody: I believe that's all.

[fol. 999]            Redirect examination.

By Mr. Schroder :

Q. He didn't deny that; he asserted it, did he not?

A. He asserted it.

Q. When Mr. Bondurant of Mr. Cody's office was over there discussing those notes with you, did he show you Mr. Burnett's deposition?

A. No. I don't recall ever seeing Burnett's deposition.

Q. Did you—the first time you saw those notes was sometime in January, 19—let me return those to the Court Reporter before we get them all soiled. The first time you saw these were in January, 1963?

A. Wednesday, February the 13th.

Q. You don't know when they were made?

A. Have no idea.

Q. Don't know who made them?

A. Nothing other than what they told me.

Q. Who said that, Burnett, the man who said he made them?

A. Who?

Q. Burnett?

A. I believe Burnett, when he came before us in a meeting that we had, did say he made the notes.

Q. That is all you know about it?

A. That is all I know about it.

Q. When Wallace Butts resigned as head coach, did he not recommend Johnny Griffith as the head coach?

A. That was my opinion.

Mr. Cody: That is not in rebuttal of anything, Your Honor.

[fol. 1000] Mr. Schroder: Rebuttal? I am putting up my case.

The Court: I think it is admissible. I will let him testify to it. I overrule the objection.

The Witness: I might qualify that. Dr. Aderhold told me that.

By Mr. Schroder:

Q. Dr. Aderhold told you Coach Butts had recommended Coach Griffith as the head coach to succeed him?

A. (witness nods affirmatively).

Q. Answer so the Court Reporter can get it down. Just say "yes".

A. Yes, yes.

\* \* \* \* \*

WILLIAM C. HARTMAN having resumed the stand, testified further as follows:

By Mr. Cody:

Q. Mr. Hartman, you understand you are still under oath in this case as a witness?

A. Yes, sir; I do.

Q. Do you recall that following the 1960 football season that you had a conference—

A. Yes, sir; I recall.

Q. —with Mr. John Bailey, Mr. Hicks Mizell, Mr. Dan Whitmire, and Mr. Dan Spain?

Q. I don't believe it was following the 1960 football season; I think it was in late November of the 1960 [fol. 1001] football season.

Q. Was that conference in Atlanta?

A. Yes, sir.

Q. Where was it?

A. Capitol City Club.

Q. Was Mr. Harold Walker there?

A. I think he was; I am not sure.

The Court: Who are those parties you mentioned? I know Mr. Harold Walker. How about the other parties?

By Mr. Cody:

Q. Would you describe who they are?

A. You want me to name them?

Q. Who is Mr. John Bailey?

A. Mr. John Bailey is a boy—a graduate of the University of Georgia. I believe he is a native of Georgia who is in the insurance business now.

Q. Went to the University of Georgia?

A. Yes, sir.

Q. Was Mr. Dan Whitmire one of the recruiters for Georgia?

A. I would think you would class him as one of the alumni recruiters; yes, sir.

Q. By “recruiter” you mean one of the young men that contacted prospective players?

A. Right. He’d go out and—

Q. Undertake—

A. He was not an official representative, of course, like the University, but like many of the supporters of the University of Georgia he would try to influence boys to come.

Q. More or less a voluntary assignment?

[fol. 1002] A. Right.

Q. Inducing young men to come to the University of Georgia that were athletes?

A. I wouldn’t say “induced them”; try to get them to come to Georgia.

Q. And Mr. Hicks Mizell, who was he?

A. I didn’t know Hicks too well until that meeting. Hicks, I believe, is a manufacturer’s representative here in Atlanta, and I assume that he is a graduate of the University of Georgia.

Q. Well, what did you discuss at that meeting with—

Mr. Schroder: Your Honor, that is out of the presence of the plaintiff.

The Court: Yes, sir. I am not going—

Mr. Schroder: You said, what did he discuss.

The Court: I think he can ask what was discussed. That would be hearsay.

By Mr. Cody:

Q. Did—did the subject matter of Mr. Butts come up?

A. Yes, sir.

Mr. Schroder: Same objection.

[fol. 1003] The Court: I think that would be hearsay, Mr. Cody.

By Mr. Cody:

Q. Now, after that meeting did you have a conference with Coach Butts?

A. I went back and talked to him.

Q. Did you tell him what transpired at that meeting?

A. I did.

Mr. Cody: I think now, Your Honor—

The Court: That is not hearsay; that is in his presence.

By Mr. Cody:

Q. Will you tell the Court what transpired in that conversation with Coach Butts?

A. With Coach Butts?

Q. Yes.

A. I told him that these boys, young boys in Atlanta were extremely upset over the recruiting in this section, in the Atlanta area particularly, and they felt like that with him as the coach at the University of Georgia they could not do a good recruiting job.

Q. Why?

A. Because of their—what they told me—

Mr. Lockerman: Your Honor please, unless he went into that with Coach Butts, it would not be admissible.

[fol. 1004] The Court: I assume he went into this with Coach Butts. I understand this is a conversation between Mr. Hartman and Coach Butts; is that correct, Mr. Hartman?

The Witness: Yes, sir.

The Court: I overrule the objection.

By Mr. Cody:

Q. Tell us what that was.

A. They objected to his activities in what was referred to as the Night League.

Q. The Night League?

A. Yes, sir.

Q. What did you understand it to be?

A. I understand it—I understood it to be—

Mr. Schroder: I don't think it is important what this witness understood it to be but what Coach Butts might have thought it would be. What this witness understood somebody else to say and put his interpretation on it—

The Court: Yes, sir; I sustain the objection to that, but I will let him continue the conversation with Coach Butts.

Mr. Schroder: Yes, sir.

[fol. 1005] By Mr. Cody:

Q. Tell us the entire conversation you had with him.

A. Well, let's see; that was quite a while ago. In substance, it was mainly that these four boys—there was another gentleman there too, Frank Spain who was not a graduate of the University of Georgia, that these four boys objected to him as a head coach at the University of Georgia.

Q. Do you mean to tell the Court now that that is the full conversation you had with Coach Butts?

A. That is the sum and substance of it; yes, sir.

Q. Would you like to refresh your recollection by referring to the deposition which you gave several months ago?

A. Yes.

Mr. Cody: May I see his deposition?

Mr. Schroder: If the Court please, may I inquire as to the relevancy of this?

The Court: I believe Coach Butts testified under direct-examination, or he stated that he resigned in 1961 because of high blood pressure—

Mr. Schroder: Yes, sir.

The Court: —in the last two games.

[fol. 1006] Mr. Schroder: Yes, sir.

The Court: And I think it is relevant for the defendant to show, if he can, or if he cannot, that that was not a true statement. I presume that is what it is for.

Mr. Schroder: Is that what this is directed towards proving, that that was an untrue statement?

Mr. Cody: Right.

The Witness: You don't have this indexed, do you?

Mr. Cody: I will give you the page number.

By Mr. Cody:

Q. First look at Page 8, Mr. Hartman. Do you—can you now state whether or not Mr. Arthur Montgomery was the other gentleman you mentioned who did not attend the University of Georgia?

A. No, sir; I didn't say Mr. Arthur Montgomery didn't attend the University of Georgia. I said Mr. Frank Spain did not.

Q. Was Mr. Montgomery at this meeting?

A. Yes, sir; Mr. Montgomery was at the meeting.

Q. Now, first—the first reason that you gave which I believe, if you refer to Page 8, see if that refreshes your recollection.

A. Yes; I stated—I stated here, I imagine, it did say it [fol. 1007] was on account of Coach Butts' activities in the Night League in Atlanta. "What do you understand by activities in the Night League to mean? I would assume that would mean appearances in various nightclubs in Atlanta."

Q. Did you have any—did the conversation with Coach Butts include any discussion about who he was with at these nightclubs?

A. No.

Q. Did it include the subject matter of his—of his conduct at these nightclubs?

A. He never has discussed that with me.

Q. Was that any part of this conversation that you had with Coach Butts?

A. Mine with Coach Butts, no.

The Court: As I understand it, Mr. Hartman, or am I incorrect, Mr. Arthur Montgomery is a Georgia alumni?

The Witness: Yes, sir. Mr. Arthur Montgomery is a Georgia alumnus, and he is very active in alumni work.

By Mr. Cody:

Q. Look at Page 21, Mr. Hartman, and see if that refreshes your recollection to the extent of correcting any statement that you have just made. I want to know now if you informed Coach Butts of anything else which is the subject matter of this complaint by these Atlanta alumni.

A. I presume you have reference to this question: "Did you inform him of these rumors which are being referred to by this Atlanta group?" And I said, "Yes, sir, I did. [fol.1008] What did you tell him the rumors were? The same as we have already discussed here, that these boys seemed to think that he was making appearances in public places over there, such as nightspots and so forth, with groups, girls, and so forth. Did you indicate to him there was any implication of an immoral relationship with any of the girls with whom he appeared in these nightspots?" And then there was some—my answer was: "Other than association I didn't tell him, I believe. I don't believe I had any specific immoral situations called to my attention in that connection other than just association."

Q. Now, in relating the substance of this conversation, Mr. Hartman, was there any other subject which you communicated to Coach Butts at that time other than what you have related?

A. No; nothing other than what I have related.

Mr. Cody: I believe that's all.



Redirect examination.

By Mr. Schroder :

Q. Mr. Hartman, Coach Butts did discuss with you about the plans he had to resign as head coach because of the last two games, that he had a condition on the side?

A. Coach Butts told me that it had been an uphill fight all the way, and with his high blood pressure and the flood of the heat he had had on the sidelines he didn't think the flutter he had was worth it.

The Court: The flutter he had?

[fol. 1009] The Witness: Yes, sir.

By Mr. Schroder :

Q. The four individuals you named that made, what you indicated a moment ago, complaints, did not include Arthur Montgomery?

A. They did not include Mr. Montgomery.

The Court: How did Mr. Montgomery—I am not sure; how did Mr. Montgomery get in?

Mr. Schroder: He was just at a meeting, that he and Mr. Hartman attended a meeting at these boys' request.

The Witness: Mr. Montgomery was vice-chairman of the Georgia Student Education Fund at the time, and I am the chairman, and in coming to Atlanta I contacted Mr. Montgomery and asked him to be with me.

Mr. Schroder: Just a moment, please.

Mr. Cody: I have a couple of other questions, Mr. Hartman, I want to ask you.

Recross examination.

By Mr. Cody:

Q. After you had this conference with the Atlanta alumni that you mentioned, did you then tell Coach Butts [fol. 1010] that if he didn't resign they were going to the Athletic Board about this subject.

A. I told him it was my opinion there was a probability of him going to the Athletic Board.

Q. Didn't they tell you that?

A. In the first part of the conversation, but in the latter stages of the conversation he indicated a weakening of that desire.

Q. You had something to back up your opinion, factual matter?

A. It was my opinion they might go to the Athletic Board.

Q. Let me ask you this question, Mr. Hartman. You, I believe, have already testified, and I want to go along with you one hundred per cent, but you are one of the prominent alumni of the University?

A. No, sir; I have not testified that I was a prominent alumnus of the University. I am an alumnus of the University of Georgia.

Q. I will concede to that. What—what is your opinion, if these factual matters that you have mentioned were true, what is your opinion with respect to whether or not it would hurt the University?

A. Insofar as my personal knowledge is concerned of these matters, I know of no situation that would hurt the University.

Q. Let's assume, for the sake of argument, that they are true; would they or not, in your opinion, hurt the University?

A. Well, I think you are asking me to make an assumption I never have made. I don't see any reason for me to make such an assumption.

The Court: I think Mr. Hartman can testify as an expert [fol. 1011] on football, but I don't think he can testify as an expert on assumption of hypothetical facts such as that.

By Mr. Cody:

Q. Can you pinpoint the dates of this conference you had with Coach Butts?

A. With Coach Butts?

Q. Yes.

A. In my opinion, it was after the Georgia-Auburn game of that year which would mean we have an off week there before the Tech game, so it must have been approximately the third week in November of that year.

Q. When did he resign?

A. I believe his resignation was announced the last week in December or the first week in January.

Mr. Cody: I see. That's all.

The Court: Do you have any further questions?

Redirect examination.

By Mr. Schroder:

Q. These four boys or any four of the boys indicate they were representing any group other than just themselves?

A. No; I don't recall them—I had known these boys fairly well, with the exception, maybe, of Mizell, and they did not indicate, I don't believe, at the time that they were speaking for anyone other than themselves.

[fol. 1012] Recross examination.

By Mr. Cody:

Q. Did you—did you acquaint any members of the Athletic Board with this situation?

The Court: I believe that would be hearsay.

Mr. Lockerman: That would be hearsay, Your Honor.

Mr. Cody: Not what he did, Your Honor, what they did.

The Court: I will let him testify if he acquainted them, not what he said.

The Witness: I am not certain, but it is possible that I told Cook Barwick.

Mr. Cody: I believe that's all.

Mr. Schroder: I have no further questions.

## Examination.

By the Court:

Q. Are you on the Athletic Board, Mr. Hartman?

A. No, sir; I am not.

Q. Who makes up the Athletic Board?

[fol. 1013] A. You want the composition of it?

Q. I don't care about the individuals; in various categories or what.

A. To the best of my knowledge there are eight faculty members. I forgot whether that includes the President of the University; he is on the Athletic Board and chairman. Whether that eight includes him in the figure, I don't remember. And there are seven non-faculty members on the Athletic Board, two of whom are selected each year by the Alumni Society of the University of Georgia.

Q. In other words, the faculty members could control the Athletic Board if they saw fit?

A. If everybody block-voted, I guess you could say the faculty could control it.

\* \* \* \* \*

CHARLES DAVIS THOMAS called as a witness on behalf of the plaintiff, after having first been duly sworn, testified by deposition as follows:

Cross examination.

By Mr. Schroder:

Q. You have told the reporter your name is Charles Davis Thomas?

A. Yes.

Q. Where do you reside?

A. 135 Central Park West.

Q. What is your present occupation?

A. I am managing editor of the Saturday Evening Post.

Q. As such, what are your responsibilities?

[fol. 1014] A. Well, under the—I edit the magazine under Clay Blair, Jr. I am the second editor, second managing editor of the Post.

Mr. Smith: Next page, line 20.

By Mr. Schroder:

Q. How old are you?

A. 34.

Q. How long have you been employed by Curtis or the Post?

A. I have been employed by Curtis since of February of 1961.

Mr. Smith: Go to Page 34, line 18.

By Mr. Schroder:

Q. Let me point out to you the statement in this story which says, and I read from Page 83, at the bottom of the second column:

“But careers will be ruined, that is sure.” So that you knew what was involved in this story before it was published? You knew that the careers of two men would be ruined as a result of the publication of the story, didn’t you?

A. Yes.

Q. And you would make certain that every source available to you, or every source that might be made available to you, was thoroughly investigated to the nth degree before you would let such a publication as this go before your 18 million readers?

A. Perhaps I might clarify things if I said “every significant source.”

[fol. 1015] Q. Or 23 million. Let the record show 23 instead of 18. Is that right? How many readers do you have?

A. We claim 23 million. That is what our circulation people tell us.

Q. The standard of conduct followed by the journalism profession certainly would demand that the most particularity of care be exercised before it would publish any article which it knew in advance would ruin the career of a man or careers of two men?

A. Yes, and that is the policy we pursued in this case.

Q. Now, when the affidavit which Mr. Graham took from Mr. Burnett was brought back here by Mr. Graham and read to you and to Mr. Kahn, you knew then that a Mr. John Carmichael had been present and discussed these notes with Mr. Burnett on the very day that he says that he wrote the notes and heard the conversation, and you knew that then, didn't you?

A. If this is in the affidavit, yes. If not, subsequently hereafter.

Mr. Smith: Page 39, line 19.

By Mr. Schroder:

Q. The affidavit, you said you attached a great deal of significance to the affidavit, which you said supported your belief that he was telling the truth?

A. Yes, sir; he swore to it.

Mr. Smith: Next page.

[fol. 1016] By Mr. Schroder:

Q. At that time, of course, you were familiar with the fact that he had been arrested and convicted of passing bad checks. You know what a bad check is?

A. Yes, sir.

Q. What are you representing to the person that you are writing that check to when you give him the check?

A. That you have funds to cover the draft.

Q. Well, is that a lie when you don't have the funds?

A. Excuse me?

Q. Is it a lie when you represent to the man that you have the funds and you don't have them?

A. Yes.

Q. And that didn't affect your belief in the credibility of one George Burnett just because he swore to you that this was true?

A. It was a matter that we took into consideration.

Q. Did you take it into consideration to the extent that you made any further investigation as to how many other bad checks he had written?

A. We were aware that there were possibly others at the time, yes.

Mr. Smith: Page 60, line 17.

By Mr. Schroder:

Q. You deliberately didn't interview him?

A. Not deliberately. We didn't see any point to it. He told Burnett—

Q. You made up your mind not to interview him, didn't you?

A. Yes.

[fol. 1017] Q. When you, as a responsible journalist, have under consideration the publication of an article which you know will ruin the professional careers of two men, you feel the necessity of relying on more than just plain hearsay evidence, don't you? You want to go and get the real facts, don't you?

A. Well, I expect my writer to.

Q. I mean the Post. I don't mean you individually.

A. All right, all right.

Q. The Post?

A. Yes, sir.

Mr. Smith: Page 62, line 24, bottom of the page.

By Mr. Schroder:

Q. Now, there were other items which occurred to your sports editor yesterday as being highly important to be checked out before this story was published. One was the

notes Burnett said he took at the time he overheard that telephone conversation. Do you agree with that?

A. Yes.

Q. Did you ever see those notes?

A. I have, yes.

Q. When?

A. After publication of the article.

Q. You went on and published it even though you didn't have that source of information available to you, which you thought was so important you went ahead and published the article without getting that information—

A. We knew the notes existed.

[fol. 1018] Q. But that is not—you wanted to see the notes before you published the article?

A. We would have liked to see the notes, yes.

Mr. Smith: Page 65, line 4.

By Mr. Schroder:

Q. Another item which Mr. Kahn—now, whether you agree with him or not, you let me know—told Mr. Bisher he thought the statement from the Alabama football players ought to be obtained.

A. Yes.

Q. But that was never obtained or those were never obtained, were they?

A. It was my understanding that Mr. Bisher was unable to come up with a player that he thought would add anything to the research on the story.

Mr. Smith: Page 66, top of the page.

By Mr. Schroder:

Q. In other words, what you are saying is this: had Alabama football players been interviewed and said, "No, we saw no difference in the way we were prepared for this game than the way we had planned for it in spring practice," you would not have put that in the article?



A. We might have.

Q. The chances are that you would not?

A. No, I would not say that.

Q. You might not?

A. I said we might have put it in the article.

[fol. 1019] Q. Might have?

A. Yes.

Mr. Smith: Page 68, line 20.

By Mr. Schroder:

Q. But don't you know that if your reputation and your character were at stake and about to be ruined, don't you think that you would like to have the full story presented to whoever was going to judge this thing?

A. It depends on what you mean by the full story.

Q. Carmichael's story.

A. The full story—perhaps we should have gone further into Wally Butts' financial connections, and his personal life, and we didn't. That is part of the story, too, but we didn't print that. There wasn't room. It wasn't germane.

Q. What is the objection, as a responsible journalist, to writing the pros and the cons of a story, particularly when a career is involved? As a responsible journalist.

A. There is no objection. One has to narrow—you have to narrow the field somehow to get an article written. Otherwise, you could spend five years writing the article.

Mr. Smith: Page 71, line 23.

By Mr. Schroder:

Q. Now, you have gone to some length in explaining your reliance upon what Coach Johnny Griffith had to say. Now, don't you know that he has denied having said three direct [fol. 1020] quotes from him in this article?

A. I am aware of that.

Q. Did you submit this article to him to check out his quotes before you published it?

A. No, it is not our practice to submit articles to people who are involved in the article for their approval.

Q. You think—

A. This is true in journalism. You rely on your reporters.

Q. Do you think it is fair to the man who is being quoted or to your 23 million readers to put what you would term as important quotations from that man, when not accurate?

A. At the time we publish them we believe they are accurate.

Q. Have you taken any steps to inform your 23 million readers that they were inaccurate quotations?

A. I am not convinced that they are inaccurate.

Q. Even though the man you are relying on says they are inaccurate?

A. It may be a question of the context, and I am not sufficiently familiar with the detailed sources of those quotes to be able to say one way or the other. I am not questioning Coach Griffith's veracity.

Q. Let me put it to you this way: You thought enough of the quotes from Coach Griffith to put them in your article, in order to, as you say, ruin the career of two men. You thought enough of them to put them in there, didn't you?

A. That is correct.

Q. And you relied upon them?

A. Yes.

[fol. 1021] Q. And your 23 million readers read what you were relying upon?

A. That's right.

Q. It has now come to your attention that he has denied making three of those quotations. What corrective steps have you taken in order to clarify the atmosphere with your 23 million readers?

A. We have taken none.

Q. There is another—

A. Had Coach Griffith wanted to write us a letter pointing this out, we would have been happy to publish it in the "Letters" column of the magazine.

Mr. Smith: Turn to the next page, line 9.

Mr. Joiner: What page, please, sir?

Mr. Smith: Next page.

By Mr. Schroder:

Q. Furthermore, the careers have already been ruined, at least the one of Wallace Butts.

Now, you rely again—and you checked this article before it was published? You read it very carefully because it was such an important, shocking, significant story?

A. Are you talking about the article or the editorial?

Q. Yes, the article.

A. Yes.

Q. I am now quoting from the left column on Page 81, which is the first column in the story. This is a quote from [fol. 1022] Burnett, directly, you were quoting from Burnett:

“Butts also said that Rakestraw (Georgia quarterback Larry Rakestraw) tipped off what he was going to do by the way he held his feet. If one foot was behind the other it meant he would drop back to pass. If they were together it meant he was setting himself to spin and hand off.”

That would be, in your opinion, a right vital bit of information for the defensive football team to know about the offensive quarterback of the other team?

A. Yes.

Q. And that is why you put it in the article?

A. Yes.

Q. Did you know that George Burnett has now said that Butts didn't say that to Bryant?

A. I understand that is true, yes, but—

Q. Have you done anything in connection with correcting that bit of misinformation that you were giving your 23 million readers?

A. No, we have not.

Mr. Smith: Page 83, line 9.

By Mr. Schroder:

Q. Do you intend to imply anywhere in this article that there was any betting on this game indirectly or directly by the principals involved?

A. No.

Mr. Smith: Page 92, line 17—18, rather.

[fol. 1023] By Mr. Schroder:

Q. Are you familiar with the fact that I, as Coach Butts' attorney, wired the Curtis Publishing Company on March 11, 1963, requesting that the article which I had learned through the grapevine was to be published, that it not be published, and in that telegram I wired as follows:

"As Coach Butts' attorney I am informing you here and now of the falsity of the charges contained in the proposed article and to respectfully request that you in the interests of fair and accurate reporting refrain from publishing or otherwise releasing said article so as to avoid totally unnecessary damage to my client. Letter follows."

A. Yes, I saw a copy of that telegram.

Q. Why was it never answered?

A. I referred it to counsel.

Q. It was never answered, was it?

A. I don't know that. I didn't answer it.

Q. I also on that same date wrote a registered letter, return receipt requested, again calling to your attention the absolute falsity of the article and pointing out to the Post the damage or destruction that it would do to my client's reputation and again requesting that it not be published. Did you know that such a letter had been written?

A. Yes.

Q. That also was not answered?

A. I don't know. I didn't answer it.

Q. The article in the issue of March 23, 1963, did come out, as it had been printed?

A. Yes.

Mr. Smith: Page 101, line 21.

[fol. 1024] By Mr. Schroder:

Q. You referred to a portion of the article a moment ago that was changed because you wanted some editorial information from Burnett about the "ordeal" he said he was going through. Did you ever consider it somewhat suspicious that he sat on this matter for almost four months without going to the law about it or without going to the coach of the Georgia football team about it or without going to anybody about it?

A. I thought it a matter of interest, which is why I asked that a fuller explanation—a fuller explanation of why he didn't, be written into the article.

Q. Don't you think if one had done what he claims he did and was interested in football, that he would have done something about it before the game was played, had he actually thought it was to be a rig or a fix?

A. I can't speak for Mr. Burnett. I think—

Q. You would have done it, would you not?

A. Yes, I would have, but I don't expect everyone to behave in the way that I do.

\* \* \* \* \*

ROBERT HENRY EDWARDS, called as a witness on behalf of the plaintiff, after having first been duly sworn, testified by deposition as follows:

Direct examination.

By Mr. Schroder:

Q. Give me the circumstances now as to what took place [fol. 1025] and what was said when you saw him on January 5th?

Mr. Schroder: "Him" being Burnett.

A. He brought notes in and I looked at them.

Mr. Schroder: Your Honor, I now want to read another portion of Mr. Edwards' deposition, Page 66.

By Mr. Schroder:

Q. When is the next time that you had any connection at all with the Butts-Bryant story?

A. The next time was, I got down to Dublin and I stopped in Dublin to get a cup of coffee and I placed a call to Johnny at that time and reached him and he was getting ready to go out to the West Coast to a football clinic or coaches' conference or something.

Q. That was on January 5th?

A. Yes, sir.

Q. Had you called him at any time before that on January 5th?

A. No, sir; no, sir.

\* \* \* \* \*

FURMAN BISHOP, called as a witness on behalf of the plaintiff, after having first been duly sworn, testified by deposition as follows:

Direct examination.

Q. Was any conversation had at that meeting pertaining to reviewing movies of the game?

[fol. 1026] A. To my knowledge, no. There might have been, and if it did it didn't figure importantly in any of our discussions. I would have said that it would have been a very good idea, though.

Mr. Schroder: One further question.

By Mr. Schroder:

Q. Did Mr. Graham or any representative of the Post ask you to check with Alabama players in your investigation?

A. No.

Mr. Schroder: Now, if the Court please, it will be remembered that during the depositions yesterday references were made to what Mr. Bisher had informed the writer of the story. I want to read a few sections from Mr. Bisher's deposition relating to those topics which the writer says Mr. Bisher had furnished him.

The Court: You adopting Mr. Bisher as your witness?

Mr. Schroder: I am adopting him as my witness for this purpose; yes, sir.

The Court: If you adopt him as a witness, he is a witness for all purposes.

Mr. Schroder: All right, sir, I have no objection at all to that.

[fol. 1027] The Court: All right, sir.

Mr. Schroder: Because they—well, I will argue that to the jury.

The Court: The point I was making, he was not under the Federal Rule an adverse witness.

Mr. Schroder: That's right, sir. Could I see board No. 2, just a minute, please. Question to Mr. Bisher—

By Mr. Schroder:

Q. Returning to the article in the Post of March 23, 1963, I am going to read to you, Mr. Bisher, from Page 81 of that article, and I will bring it over there where you can check my reading, and I will read a section from the second column of Page 81 which is headed, "Putting the Pieces Together", and it reads, "In the next few hours Burnett tried to piece together what he knew of Georgia football. Butts, a native of Milledgeville, Georgia, had joined the University coaching staff as an assistant in 1938. A year later he was named head coach. For 20 years he was one of the most popular and successful coaches in the South. Then prominent University of Georgia alumni abruptly soured on him, and on January 6, 1961, he was replaced by a young assistant coach named Johnny Griffith. Butts, fled away in the position of Georgia's athletic director (which he had

held along with his coaching job for some years), was outspokenly bitter about his removal from the field." Did [fol. 1028] you inform that information to the author of the article?

A. No.

Q. Did you furnish to the author of the article, Mr. Bisher, any part of that section which I have just read?

A. No, I did not.

Mr. Schroder: On Page 55, reading from Mr. Bisher's deposition—

By Mr. Schroder:

Q. Did you at any time in conversation with any representatives of the Saturday Evening Post, including Frank Graham, Jr., discuss the figure \$70,000 that is referred to in that section of the article that Butts is supposed to have lost?

A. To my knowledge, no.

Q. Now, did you pass that on to Frank Graham?

A. I said I did not.

Mr. Schroder: The next one, Your Honor, is on page 57.

Mr. Smith: Is that another column?

Mr. Schroder: That is Page 82, column 2, board 5. It begins at 56.

By Mr. Schroder:

Q. Reading again from the second column on Page 82 of the Post issue: "Griffith had since spoken of his feelings when he had finished reading Burnett's notes and Burnett [fol. 1029] and Edwards had left. 'I don't think I moved for an hour—thinking what I should do. Then I realized I didn't have any choice.'" The quotes and internal quotes that I just read were given by you to Frank Graham?

A. The prior sentence I had nothing to do with. I did not furnish the prior sentence, reading this way: "Griffith has since spoken of his feelings when he had finished reading Burnett's notes, and Burnett and Edwards had left."



Q. You did not furnish that?

A. No, I did not.

Mr. Schroder: Your Honor understands I will connect these up with Mr. Graham's deposition when I address the jury.

By Mr. Schroder:

Q. This is one on Page 83 of the article which has already been referred to, "one of the wildest ones—"

The Court: You still reading from Mr. Bisher's deposition?

Mr. Schroder: Yes, sir.

By Mr. Schroder:

Q. I refer specifically to Page 83. It says, "One of the wildest was that Butts was mysteriously and suddenly ill and had entered the State Hospital at Athens. This was quickly scotched when Georgia University officials maintained that Butts merely went for the physical checkup required for his pension records. Shortly afterward he was [fol. 1030] seen in Atlanta at a Georgia Tech basketball game." Did you furnish any of that information to Mr. Graham or the Saturday Evening Post?

A. No, I don't know where they got that.

The Court: All right, sir, anything further from Mr. Bisher's testimony?

Mr. Schroder: I am checking, Your Honor. One final question from Mr. Bisher.

By Mr. Schroder:

Q. Did you give information to the Saturday Evening Post that motion pictures of other games were being scrutinized?

A. No.

\* \* \* \* \*

JOHN C. CARMICHAEL having resumed the stand, testified further as follows:

Recross examination.

By Mr. Cody:

Q. Mr. Carmichael, you understand you are still under oath in this case as a witness?

A. Yes, sir.

Q. And under cross-examination?

A. Yes, sir.

Q. Do you recall that on three different occasions you [fol. 1031] have testified with reference to these particular notes?

A. I don't know about three occasions, but I have testified; I don't know how many occasions.

Mr. Cody: Let me have the notes, if you have got them, please.

The Clerk: All right, sir.

Mr. Cody: Just leave them right there for a minute. I will straighten them out.

By Mr. Cody:

Q. Do you remember appearing in Mr. James Therrill's office on March the 21st, 1963, to give some testimony in relation to this matter?

A. I don't remember the exact date, but I appeared in his office; yes, sir.

Q. That was over at the State Office Building?

A. That's correct, sir.

Q. I'd like to ask you, Mr. Carmichael, if there was a record made, if you recall, of what you said on that occasion?

A. There was—there was no one sitting there making a record. There was a tape recorder there taking down what I said.

Q. Have you since that occasion had an opportunity to read a transcript that was written up of what that recording showed?

A. Yes, sir. I called—they printed something in the paper that I didn't say—

Q. I am not asking you that.

[fol. 1032] Mr. Schroder: I think he has got a right to explain.

The Witness: I have got a right to answer a question.

The Court: Just a moment. Let him ask the question and I will permit Mr. Carmichael to explain it.

By Mr. Cody:

Q. I asked you if you have seen a transcript?

A. Yes, sir.

Q. Of your statement that morning?

A. Yes, sir; I have. Can I explain that, how I saw it?

The Court: Wait just a moment, then I will permit you to explain it.

Mr. Cody: I don't want him to go into some argument with me now about why he said it.

The Court: I am not going to permit him to do so.

Mr. Schroder: I certainly think he ought to be permitted to explain.

The Court: I think he could explain it, Mr. Schroder.

[fol. 1033] Mr. Schroder: Right, sir.

Mr. Cody: I haven't asked him yet what he said on that occasion. I want to get that in first. Then I will let him explain it.

The Court: All right, sir.

By Mr. Cody:

Q. Did you make this statement—

Mr. Lockerman: Whereabouts?

Mr. Cody: On Page 5.

By Mr. Cody:

Q. —referring to Mr. Burnett's occasion when he called your attention to this conversation: "He did have some papers that he said were notes. I did not read these notes." Did you make that statement?

A. I didn't pick them up and read them; no, sir; but I did see the notes.

Q. Did you make that statement?

A. If it is in that transcript, I made it.

Mr. Schroder: That is not contradictory to anything in this case.

The Court: I will let him explain.

[fol. 1034] The Witness: All right. You asked me if I had occasion to read a transcript of this. I picked up a paper a few days later, and the paper had a statement that was attributed to me that I didn't make.

Mr. Cody: Well, Your Honor—

The Witness: Accordingly, I called Mr. James Therrill and told him I wanted a transcript of everything I had said on that tape recording, and he sent it to me, and that is how I got to read it.

The Court: Let me see the notes just a moment. Are you through with him?

Mr. Cody: No, sir.

The Court: All right, sir, go ahead.

Mr. Cody: I am through with the notes. I wanted to lay them out there where he could see them.

The Court: All right; go ahead.

By Mr. Cody:

Q. Do you remember—do you remember making this statement or Mr. Therrill putting this question to you and [fol. 1035] you making this particular answer which I will read; it is on Page 17. "Mr. Therrill: Now, you didn't actually read the notes or go over them with Burnett after he had taken them down?" And your answer: "No, I didn't." Is that correct?

A. If that is what is in that transcript, sir, I am not saying I didn't say it.

The Court: Well, is it correct?

The Witness: Sir?

The Court: Is it correct?

The Witness: It is not correct. I did see the notes, Your Honor.

By Mr. Cody:

Q. In other words—in other words, you misrepresented the facts to Mr. Therrill on that occasion?

A. No, sir; I am not trying to misrepresent anything to anybody.

The Court: I don't think that is a proper way, Mr. Cody. I think that tends to get into argument. You can read what he testified then and what he testified yesterday.

Mr. Schroder: If the Court please, there is no discrepancy between the two.

[fol. 1036] Mr. Cody: I think that is argument.

The Court: That is a matter for argument.

Mr. Cody: It is improper.

The Court: But I don't think his question was proper.

By Mr. Cody:

Q. "Question (By Mr. Therrill): Did Burnett ever relate to you what he had heard over the telephone?" And your answer: "Yes, he did, that day. He told me that very day, as soon as he laid down the phone exactly what he had heard. I guess he told me what he had heard." Did you make that statement?

A. If that is in there, sir, I made the statement.

Mr. Lockerman: And will you finish it where he goes on to say "I don't know".

The Court: Address the Court instead of interrupting like that; address the Court, and I will—

Mr. Lockerman: Well, Your Honor, I do take exception to that.

The Court: I say, you can address the Court for that, Mr. Lockerman.

[fol. 1037] Mr. Lockerman: Yes, sir.

The Court: All right.

By Mr. Cody:

Q. Now, do you remember that I took your deposition later on June 26, 1963, and I am reading from Page 8, and I want to ask you if this is a correct transcript of the questions and answers propounded to you at that particular time, referring to the notes now. Question: "Did you examine them? Answer: I did not take them in my hands, no, sir. He sat back down at my desk and I sat down in a chair next to it and he was telling me. He laid these notes out and he was telling me the things that I just mentioned. He laid the notes down on the desk. They were laying there and I did not see them, but I—"

Mr. Lockerman: If Your Honor please—

The Court: Yes, sir.

By Mr. Cody:

Q. "—did see them."

The Court: Just a moment; just a moment.

Mr. Lockerman: I have a copy of that transcript, and he is over on Page 9, and he says, "He laid the notes down [fol. 1038] on the desk. They were lying there." My copy reads, "And I did see them."

Mr. Cody: I am fixing to correct it.

The Court: Let him get to it, then.

Mr. Lockerman: I mean, Mr. Cody read, "I did not see them." My copy reads, "I did see them."

The Court: He read it incorrectly, is that what you are saying?

Mr. Lockerman: Yes, sir.

Mr. Cody: Yes, sir; I am fixing to correct it.

By Mr. Cody:

Q. "He laid the notes down on the desk. They were laying there, and I did see them, but I did not pick them up and look at them." Is that your answer?

A. That is absolutely true, sir.

The Court: Give me a copy of the deposition.

By Mr. Cody:

Q. Now, Mr. Carmichael, do you remember that on June 26, 1963, you gave another deposition in which these notes were discussed?

[fol. 1039] A. I think it was all at the same time and at the same place.

Q. One I did not participate in, however. This was the deposition taken by Mr. McCall?

A. Yes, sir.

Q. A Birmingham attorney?

A. Yes, sir.

Mr. Lockerman: Your Honor please—

The Court: Yes, sir.

By Mr. Cody:

Q. On Page 78—

Mr. Lockerman: —I don't happen to have that; may I have the Court's copy?

The Court: I don't think we have a copy of it. I presume he was sworn in another matter. I don't have a copy of it.

Mr. Cody: Mr. McCall was present. Maybe he has a copy he can lend him.

The Court: I don't need it; go ahead.

Mr. Cody: Can I read along with him?

[fol. 1040] The Court: I think you can probably lend one to Mr. Lockerman, if there is another one available.

Mr. Schroder: You don't mind if I sort of look on?

Mr. Cody: No.

The Court: Let Mr. Schroder look over your shoulder.

By Mr. Cody :

Q. I am starting to read—

The Marshal: Let's have order, please.

The Court: Yes, sir.

By Mr. Cody :

Q. —from the bottom of Page 78 this is Mr. McCall's question, still speaking of the Burnett matter: "He did inform you on that occasion that Coach Butts told 'Bear' Bryant that Georgia at this time had one of the greatest football players that had ever played in the history of the University of Georgia?" And your answer: "I don't remember the name of the player, but I do remember that he said that one of the players was a great football player, one of the greatest, he said." Question: "And they had added two new coaches?" Answer: "And they had added two new coaches." Now, getting down to the notes, Question: "I [fol. 1041] believe you stated earlier that you saw some notes?" Answer: "Yes, sir." Question: "Were the notes on a single sheet of paper or many sheets of paper?" Answer: "No, on several sheets of paper. I don't know the exact number." Question: "There was more than one sheet?" Answer: "Yes, sir." Question: "Was it in pen or pencil?" Answer: "That I cannot remember, sir. I just don't know." Question: "Was it on a yellow piece of paper like this or a white piece of paper?" Answer: "There again it was on a pad that I had on the desk. I believe actually—I believe it had a gray tint to it. It was not white, it was not yellow, I don't believe. I believe the paper had a gray—whitish-gray tint to it." Question: "Was it a ruled piece of paper or just blank?" Answer: "No, sir, a piece of paper—a plain piece of paper except for the man's name that we got it from that was on it, I believe." And then turning to Page 81, Question: "Did he say anything about the notes he took down as part of this conversation?" Answer: "Well, he had the thing there about the ballplayer being great and a note, and as I say, I didn't pick them



up and read them, but I remember that particular thing, and also about the two coaches that were added and also about the fact of the Sunday—fact of the Sunday bit that I mentioned.” And then turning to Page 90, still discussing the notes, Question: “Would you recognize the notes, Mr. Carmichael, if you saw them again?” Answer: “I am sure I would, sir.” Question: “And were they in a stack or pile, or were they spread out on the desk?” Answer: “They were on several pieces of paper, and while he was talking to me he laid them out one at a time, you know, laid them out on the desk there in front of me.” Question: “He never related to you what was on those several pieces of paper?” [fol.1042] Answer: “He didn’t pick them up and read them, no, sir, if that answers your question.” Question: “No. I am not asking you that. But as he was putting them out in front of you or placing them in front of you, he never told you what was written on those several pieces of paper?” Answer: “He was telling me about this fellow being a great player and about the coaches and about him asking if he would be home on Sunday. This is the three things.” Question: “Those are the only things he told you about—only three things he told you about?” Answer: “This is the only three things I can recall him stressing anything on.” Question: “You never looked at those notes outside of seeing them on the desk?” Answer: “I never picked them up. I looked at them there on the desk.” Question: “Did you read any of it—any of the writing on the paper itself?” Answer: “No, sir, I didn’t pick them up to read them.” Have I correctly read the transcript of your testimony given in that case?

A. If that is my transcript, sir, you correctly read it, with the exception that I did see the notes and I did see what was written on them, and I will say that now, sir.

Q. Then you have changed your testimony, haven’t you, Mr. Carmichael?

A. If it says I didn’t, I am correcting it to say I did; yes, sir.

Mr. Schroder: Your Honor, that doesn’t—

By Mr. Cody:

Q. Do I understand your testimony now to say you—  
[fol. 1043] Mr. Schroder: Read it back to him—excuse me, Your Honor. I don't think he fully understood.

The Court: Let him read that portion back.

Mr. Cody: What portion do you mean?

The Court: About reading the notes or not reading the notes.

Mr. Cody: All right, sir.

By Mr. Cody:

Q. Question: "Did you read any of it—any of the writing on the paper itself?" Answer: "No, sir, I didn't pick them up to read them."

A. That's right. I didn't pick them up to read them, but I did read them, sir, and they were laid right under my nose to where I could see them, so, I am testifying now that I did read what was wrote down there.

Q. Now, getting back to the evidence which you gave to Mr. Therrill when you were there, on Page 5: "He did have some papers"—referring to Mr. Burnett—"that he said were notes. I did not read these notes."

Mr. Lockerman: If Your Honor please, he has already read that. I marked it as having been read a moment ago. [fol. 1044] The Court: Is this some of the testimony, or is this—

Mr. Cody: This is the same, but I wanted to get back to it to see if he wants to correct this statement.

The Court: I don't think you can keep repeating, Mr. Cody.

By Mr. Cody:

Q. Mr. Carmichael, you—

Mr. Cody: Let me get one other paper here.

By Mr. Cody:

Q. Where had you been on the morning of September 13, Mr. Carmichael?

A. I believe I had been to my dentist, Dr. Davis in Buckhead.

Q. Who is that?

A. Dr. Davis.

Q. What Davis is that?

A. H. M. Davis.

Q. At Buckhead?

A. Yes, sir.

Q. You know what time you left his office?

A. Well, it was early in the morning I went, and I believe that I—in fact, I am not a hundred per cent positive that is where I went, but I believe that is the only place I could have gone. I will put it that way to you, sir.

Q. Do you have any independent recollection other than that where you might have been?

[fol. 1045] A. I haven't even asked Dr. Davis if I was there that day, but I am pretty sure that is where I was at.

Q. I believe you testified on direct-examination that Coach Leahy at Notre Dame brought his football team down there and brought his players out there to eat with you.

A. I have fed a lot of football teams out there, sir.

Q. Did Coach Butts bring some of his team?

A. No, sir; I never fed the Coach's team.

Q. Did Coach Butts come out there and eat with you?

A. As I mentioned, he eat out there the day I met him; yes, sir.

Q. Well, did he come out there thereafter?

A. No, sir; he was not a regular customer of mine.

The Court: Didn't we go over that yesterday?

Mr. Cody: Yes, sir.

By Mr. Cody:

Q. Did I ask you yesterday, Mr. Carmichael, if at these various businesses that you operated, these night spots, if you had floor shows in all of them?

A. Yes, sir; you did.

Q. What was your answer?

A. In all of the supper clubs I operated I did have floor shows. I did not have a floor show, however, at this place we mentioned earlier. All I served there was food; it was strictly a restaurant. But in the supper clubs I had I did have floor shows in all of them.

[fol. 1046] Q. What—would you mind giving me the names, again, of these supper clubs?

A. Well, I had—

Mr. Lockerman: We went over all that yesterday.

The Court: We went over that, Mr. Cody. What is the use of repeating it?

Mr. Cody: I believe Your Honor is right. I think it is improper.

The Court: There was one at the Clermont Hotel, and so forth.

Mr. Cody: I withdraw the question.

The Court: Is there anything further?

Mr. Cody: Yes, sir.

By Mr. Cody:

Q. I want to find out from you—I want to find out from you, Mr. Carmichael, what the nature of these floor shows were.

The Court: What is the relevancy of that?

Mr. Schroder: What is the relevancy of that?

[fol. 1047] The Court: I think we are getting off—

Mr. Cody: I withdraw that if I can't connect it up.

The Court: —far afield.

By Mr. Cody:

Q. Let me ask you this question, Mr. Carmichael. Did you ever have a conversation with Mr. Scaggs—

Mr. Schroder: Who?

Mr. Cody: Mr. Scaggs.

By Mr. Cody:

Q. —who is an officer of the Foundation Life Insurance Company in which the notes, these Burnett notes were discussed?

A. No, sir; I sure have not.

Q. You have never talked to him about it?

A. I have never talked to Mr. Scaggs about these notes. I have set in on a conversation where it was discussed, but I didn't do any talking.

Q. Do you remember on March the 12th, 1957, filing an application with the City of Atlanta for permit to sell alcoholic beverages or mixed drinks?

A. No, sir; I don't recall that particular date.

Mr. Lockerman: Your Honor, what is the relevancy of that?

[fol. 1048] The Court: I don't know. I was waiting—how do you plan to connect that up?

Mr. Cody: I want to show that he has misstated in this application—

Mr. Schroder: Let him see it.

The Witness: What date is that, sir?

Mr. Cody: March 12, 1957.

By Mr. Cody:

Q. Is that your signature on that paper?

Mr. Schroder: Do you have another copy of it?

Mr. Cody: What?

Mr. Schroder: Do you have another copy of it?

Mr. Cody: No, no.

The Witness: That is my signature; yes, sir.

[fol. 1049] Mr. Schroder: May I, as Mr. Butts' attorney, have a chance to look at the paper?

The Court: Yes, sir; yes, sir.

Mr. Schroder: I haven't seen it.

The Court: I haven't either; I don't know the nature of it.

By Mr. Cody:

Q. Do you see the fifth question on that application?

Mr. Schroder: May I see what it is, Your Honor, that he is referring to?

By the witness:

A. (By the witness) They are not numbered. Would you like to read it, sir?

Q. "What was—"

The Court: Just a moment; just a moment. I don't know what is in that affidavit.

Mr. Schroder: I don't either. May I look at it before he goes into it, Your Honor?

Mr. Cody: Yes, sir.

[fol. 1050] The Court: Yes, sir.

Mr. Cody: That is all right.

The Witness: I have no objection to that.

The Court: While this discussion is taking place—you may step down, Mr. Carmichael.

The Witness: Yes, sir.

(Whereupon the witness was excused from the stand.)

The Court: I will permit the jury to refresh themselves on the outside from now until twenty minutes of twelve, and, as previously, I must admonish you not to discuss the case among yourselves or permit anyone to discuss it in your presence during this fifteen-minute interval. You may now pass out; everyone else remain seated.

The Marshal: Everyone else remain seated, please.

(Whereupon the jury retired from the courtroom at 11:23 a.m.)

The Court: What is it?

Mr. Schroder: This is the document.

[fol. 1051] Mr. Cody: You want me—I can give you the substance of it.

The Court: All right, sir.

Mr. Lockerman: Let him read it.

The Marshal: Let's have order, please.

Mr. Schroder: His Honor will know what it is when he takes one look at it.

Mr. Cody: Might as well take a look at this one at the same time. It's another one.

The Marshal: Everyone remain seated, please.

The Court: Let me see the other one.

Mr. Cody: I'd like to state what the relevancy of it is.

The Court: Yes, sir.

Mr. Cody: I want to show to the Court that on two different occasions he applied to the City of Atlanta for license— [fol. 1052] permit to sell drinks, which is the substance of that application.

Mr. Schroder: I think the application is to sell beer.

Mr. Cody: It's what they call a pouring license, but let's—

Mr. Schroder: Well, it reads "beer."

The Court: Is that the legal pouring license?

Mr. Cody: I think that is what some people call it, but I want to prove by this instrument that they asked him on both occasions whether or not he had ever been convicted of a crime. If Your Honor will let me see it just a minute, I don't want to misquote the application, and I want to show the first one—

Mr. Schroder: I thought you didn't have any extra copies.

Mr. Cody: The first one having been signed on the 2nd day of July, 1940, where it says: "Have you ever been convicted or plead guilty to a crime in any court?" The answer to which he says is "no". And I expect to show that he was convicted on two different occasions, one in the State of Ohio and one in Fulton County, Georgia. One of them, the conviction in Fulton County, Georgia, being in connection with the illegal sale of liquor, and was fined five hundred [fol. 1053] dollars. And I say it goes to the credibility of the witness when a misrepresentation of that sort is made; and, secondly, in regard to the—now, the conviction in Fulton County, however, was not until after that particular application was made, so the one—it was in 1949. Now, this March 12, 1957, they asked him: "Have you ever been con-

victed or plead guilty to a crime in any court"? And he made a checkmark by the answer which says: "Yes". "If so, state the offense and date." Then he puts "1932 but I was not guilty and was released." I want to show to the Court that that is a false statement. I have a duly authenticated copy of the proceedings in which he was tried and convicted and served a sentence in connection with that conviction. And I say that it goes to the credibility of this witness, and we are right down to a point in this case, Your Honor, where credibility of a witness—

The Court: All right. 1940; that's twenty—he made an explanation of it. 1940; that's twenty-three years ago.

Mr. Cody: Yes, sir.

The Court: All right, sir; now, what is—

Mr. Cody: I say that on the—on the credibility of a witness it is a very important issue in this case, because he has stated that these are different notes from the ones which he was first shown when this Burnett affair first came to his attention, and I say that the credibility of a witness in that [fol. 1054] respect is most important.

The Court: Oh, I agree with you; credibility of a witness in any case is most important, but on the second question, which was in '57, he says—he says, "1932—" I don't think that is correct; I think it was 1933, is my recollection.

Mr. Cody: Right, sir.

The Court: "But I was not guilty and was released." I don't know whether that is a false statement or not. Most anybody is never guilty, even though they—and released, they are eventually released.

Mr. Cody: But that is not a correct answer. This question says: "Have you ever been convicted and plead guilty?" My point is, he was tried and convicted.

The Court: That is in 1940, the application you have there.

Mr. Cody: No, sir; this is 57.

The Court: Oh, I must be—I have got the '57 one here. In '57 he says—"Have you ever plead—if so, state the offense and date." "1932." That was, as I say, incorrect; it



was 1933. "But I was not guilty and I was released." I [fol. 1055] don't know whether that is a false statement or not.

Mr. Cody: I think it is for a jury to determine. I think the best that can be said in his favor, it is evasive; but I think it is false.

The Court: These are beer permits according to the petition.

Mr. Cody: Yes, sir. Look at the—look at the—we expect to show the '49, the 1949 conviction in Fulton County.

The Court: All right, sir; what about that?

Mr. Cody: That would—

The Court: Is that a crime involving moral turpitude?

Mr. Cody: It wouldn't matter. It is a misstatement in this application; it is a misrepresentation to the public authorities, and it goes to the credibility of this witness. That is the—that is the purpose in the City officials undertaking to issue these licenses to see that they are issued to people without a criminal record.

The Court: Well, what is your '47? Is that an application for a beer license?

[fol. 1056] Mr. Cody: '49. No; the '49 was the date of the conviction that I referred to in Fulton County.

The Court: What was that for?

Mr. Cody: In which he was tried and convicted and fined five hundred dollars.

The Court: Well, that would not be a crime involving moral turpitude.

Mr. Cody: No, sir, it would not. We are not talking about impeachment; we are talking about credibility.

Mr. Schroder: If the Court please—

The Court: Go ahead.

Mr. Schroder: —I am asking for a copy of the conviction. Mr. Cody is standing up here saying he was convicted, and I ask for a copy of the conviction; he says he doesn't have it. He is talking about this '47 thing?

The Court: In Fulton County.

[fol. 1057] Mr. Cody: That is a matter of proof.

Mr. Schroder: Well, do you have it?

The Court: The Fulton County—the Ohio conviction, I have seen that, but I am not familiar with Fulton County.

Mr. Cody: Yes, sir; I have that, and I propose to introduce it in evidence again, but the conviction was on March the 22nd—no, it involved a matter that occurred in 1949, but was tried on March 22nd, 1950, in the Criminal Court of Fulton County, case number 225,584. I will be prepared to present a copy of that to the Court if—

Mr. Schroder: As I understand it, that is the only way he could prove it is by a certified copy.

The Court: He is not attempting to do that. I believe, Mr. Schroder, he is trying to show that the witness made application for a beer license, I assume under ordinances of the City of Atlanta, and in that application he made a sworn statement to the effect that he had never been convicted of a crime.

Mr. Schroder: You mean—

The Court: And I assume—I haven't seen that particular, your later application, the application he actually had been convicted of a crime. That is a proper way of impeaching him, but I am not going to let you go back into this '33 conviction. I don't think he—there is a question in my mind whether he improperly answered that question, but on your liquor violation, if you have—I assume he would admit it, and if he doesn't, that is a matter—

Mr. Cody: All right, sir.

The Court: But I am not going to let you go back into that '33 one.

Mr. Schroder: Just a minute.

Mr. Lockerman: May I point out something to the Court?

The Court: Yes, sir.

Mr. Lockerman: He is claiming he improperly answered this question that he is referring to, and I assume he is talking about the one of March 12, 1957, application for beer license. The question was: "Have you ever been convicted

—” and then they have struck out, you know, “or plead guilty to a crime in any court.” There is a—

Mr. Schroder: He checks “yes”.

[fol. 1059] Mr. Lockerman: He checks “yes”. The form itself has two answers, one “yes” and one “no”. This copy which he has furnished to us shows he checked the answer “yes, I have been convicted”, and then he shows that it was in 1932.

The Court: Well, I am not going to let him go into that. What I was questioning him about was the violation of some liquor law in '47, '49.

Mr. Schroder: Violation of some liquor law in '47 or '49?

The Court: That is what he said.

Mr. Schroder: Well, he answered “yes”.

The Court: How many applications do you have there, Mr. Cody?

Mr. Cody: Two.

The Court: Let me see the second one. I have only seen one of them. I had two copies of one; I mean, they are the same one.

Mr. Lockerman: That is the one in 1957.

[fol. 1060] The Clerk: Let me have those two?

Mr. Cody: Here is one of 1957, March 12.

The Court: I have that one. Where is the other one?

Mr. Cody: Here it is. I thought it was given to you.

The Court: Well, the one on July 22, 1940, they asked the question: “Have you ever been convicted or plead guilty to a crime in court?” He says, “No.”

Mr. Lockerman: That's right. That was twenty-three years ago.

Mr. Schroder: And the liquor law hadn't been violated.

The Court: I am going to exclude that evidence. I want to be fair to the witness. I am going to rule it out. I want to talk—I want to ask the witness some questions when he comes back.

Mr. Cody: Are you ruling out the 1957?

The Court: I am ruling both out. Let's take a recess for ten minutes.

[fol. 1061] (Whereupon Court recessed at 11:35 a.m., reconvening at 11:52 a.m.)

After Recess

The Court: You may continue. Did you want some more questions from Mr. Carmichael?

Mr. Cody: Yes, sir. I thought the Court said he wanted to ask him some questions.

The Court: No, sir; I am not going to ask him any questions.

Mr. Cody: I have one more.

The Court: You have one more?

Mr. Cody: I want to ask him about that—

The Court: All right, sir; all right, sir; let him come back in.

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JOHN C. CARMICHAEL having resumed the stand, testified further as follows:

[fol. 1062] Recross examination (continued).

By Mr. Cody:

Q. Mr. Carmichael, in March of 1950 were you tried and convicted in the Criminal Court of Fulton County on the illegal charge of liquor?

A. No, sir; I don't believe so. If you have got a record, sir, to say I was, I was.

Q. I am asking you—

A. I don't ever remember being charged in my life with the illegal sale of liquor.

Q. Were you tried in the Civil Court of Fulton County and convicted of any such charge—

A. I was tried—

Mr. Schroder: They don't try those cases in the Civil Court of Fulton County.

By Mr. Cody:

Q. In March of 1950—

Mr. Lockerman: Your Honor, that is not the proper way to do it. I think he has to have the record of conviction.

Mr. Cody: I will get the record.

The Court: No, sir; he can ask him, first, and if he denies it, then he brings forth the record. If he admits it—

The Witness: I am denying I was charged with the sale of—illicit sale of liquor.

[fol. 1063] By Mr. Cody:

Q. In March of 1950 in the Criminal Court of Fulton County, what were you charged and tried on?

A. I was charged with being in possession of out-of-state liquor without a Georgia stamp on it.

Q. Were you convicted?

A. Yes, sir.

Q. Were you fined or did you serve a sentence?

A. I was fined a fine, sir.

Q. What is that?

A. I did not serve a sentence, no, sir.

Q. You were fined? How much?

A. To the best of my recollection it was five hundred dollars.

The Court: How is that admissible, Mr. Cody?

Mr. Cody: In connection with this—with the misstatement in the application for this license which was subsequently applied for.

The Witness: That was seven years later.

The Court: All right, sir, go ahead.

Mr. Cody: I have one other question that I want to clear up.

By Mr. Cody:

Q. Did I understand you to say in your testimony yesterday, Mr. Carmichael, when Mr. Schroder was asking [fol. 1064] you about these particular notes which are on the Judge's desk, you made this answer: "No, sir; these are not the same notes that Mr. Burnett handed me."

A. Showed me; he didn't hand them to me; he showed them to me.

Q. Then, is it your testimony now that you did not say yesterday that they were handed to you?

A. If I did, I was in error.

\* \* \* \* \*

Redirect examination.

By Mr. Schroder:

Q. This matter that you were just questioned about in relation to the out-of-state liquor, you testified about that to Mr. Cody when he took your deposition, didn't you?

A. I certainly did.

Q. You gave him all the details then?

A. I certainly did.

Q. And what were the details?

A. The details were that I bought some whiskey from a gentleman from Kentucky. It had Kentucky stamps on it. I did not buy this whiskey to sell; I had no intention of that. I used it—I was using it for a gift to give away for Christmas presents. That was my reason for buying it. And a fellow by the name of John Bradley, who had charge of all the liquor associations in Georgia, found out that I had this whiskey, and he was getting about twenty cents a case on all Georgia liquor that had Georgia stamps on it, and he reported it to the State Revenue Department that I had some whiskey with out-of-state stamps on it. The State [fol. 1065] Revenue agent came to where I was and had it and made a case against me.

Q. Just for possessing it?

A. Just for—well, it wasn't against the law to have the whiskey, Mr. Schroder; it was against the law not to have a Georgia stamp on it, which I didn't even know.

Q. It had a Kentucky stamp on it?

A. Right. I didn't even really know that. That was—anyway, I was charged with that, but I did not sell any of the liquor, and I have not been charged with the illegal sale of it, I am sure.

Q. All right, sir. That is what you told Mr. Cody some months ago?

A. That is exactly right, sir.

\* \* \* \* \*

By Mr. Schroder:

Q. What is the name of the concern at the bottom of each page on those notes?

A. Well, it is—the name says, “Compliments of H. E. Knight, Banner Printing Service, Conley, Georgia” with his telephone number.

Q. How many pads with that name on them did you have in your office on Eleventh Street?

A. Oh, probably forty to fifty.

Q. When the office was closed on Eleventh Street, were the pads taken home by those who worked there?

A. By me and Mrs. Burnett; yes; we divided up all the little things in the office that were any good, and we figured we could use these scratch pads, and both of us took some of them.

Q. All right, sir. When is the first time that a photostat or other copy of those notes—when is the first time they have [fol. 1066] ever been or were they ever shown to you?

A. Well, the first time I ever saw a copy of these notes was when the Attorney General and Legislative Committee from the State of Alabama came over here to Atlanta and questioned me, and they showed me a photostatic copy of those notes.

Q. What did you at that time tell them with respect to whether or not they were copies?

The Court: We are getting into the investigation of the Attorney General of Alabama—

Mr. Schroder: Oh; all right, sir.

The Court: —and Alabama, and I don't think that would be—I think we are opening the door, Mr. Schroder.

Mr. Schroder: All right, sir.

By Mr. Schroder:

Q. The first time then—do you remember about when that—do you remember about when that was that you first saw a reproduction of these notes?

A. I don't remember the exact date, Mr. Schroder.

Q. Was it after you had given the answers to the questions propounded to you by Mr. Therrill that Mr. Cody was asking you about this morning?

A. It was after I talked to Mr. Therrill; yes, sir.

[fol. 1067] Q. When you were being questioned by Mr. Therrill, did he show you a reproduced copy of these notes?

A. He showed me nothing.

Mr. Schroder: That's all I have, Your Honor.

The Court: Any further questions of Mr. Carmichael? Let him go down.

Mr. Cody: You can be excused.

Mr. Schroder: Just a minute.

The Court: Just a moment, Mr. Carmichael; they are conferring.

Mr. Schroder: One more question.

The Court: Let him come back to the stand.

Mr. Schroder: I should have consulted my associate before I said that was all.

By Mr. Schroder:

Q. How did these notes, being Defendant's Exhibit 12, differ from those which Mr. Burnett showed you on Sep-[fol. 1068] tember 13 in the handwriting or any way that you can describe?



A. Well, let me answer that by saying this, Mr. Schroder. Mr. Burnett is quite a doodler, and on the original notes that Mr. Burnett showed to me immediately after he was supposed to have heard this conversation, I recall very vividly that on the first page he showed me there was only one thing wrote on it; there was quite a bit of doodling on the notes that he had, but the only thing that was on that front page outside of doodling was the name of Coach Wally Butts and Coach "Bear" Bryant. On this page the word "Coach" is not on here. This is the only thing that was on that page except the doodling, and it was not written across that page this way at all; it was written this way, sideways. The balance of these notes I did not see. I did not see page 2 at all or page 3 or page 4 or page 5 or page 6 or page 7; none of these pages are the pages that Mr. Burnett laid down in front of me that morning and showed me. He did have four or five pages in his hand, and on one page was the words "Coach Wally Butts" and "Coach 'Bear' Bryant". On another page was wrote a name of a football player with a lot of doodling on it, and it had on there "great football player" or words to that effect, "greatest in history" I believe were his exact words. On another page that he laid down it had "call Sunday" or "Will you be home Sunday, will call"; that is the way it was, "Will you be home Sunday, will call." There was no notes at all with some of the things you have on these notes, that are on these notes. There was no such thing as "10:40 a.m." or "641" or "September 13" or "Jackson 5-3536" or "Athletic office" or any of these things. There were none of these things on the notes Mr. Burnett showed to me.

[fol.1069] Mr. Schroder: All right, sir; that's all, Your Honor.

The Court: All right, sir, any further questions?

## Recross examination.

By Mr. Cody:

Q. How long did you say you had known Coach Butts?

A. Coach Butts?

Q. Yes.

A. I have been acquainted with him for about fifteen years.

\* \* \* \* \*

HAROLD HECKMAN called as a witness on behalf of the defendant, after having first been duly sworn, testified as follows:

## Direct examination.

By Mr. Cody:

Q. Your name is Mr. Harold Heckman?

A. That's right, sir.

Q. How long have you lived in Athens, Mr. Heckman?

A. Forty-two years.

Q. Are you connected with the University of Georgia?

A. I am head of Accounting and professor of Accounting at the University.

Q. Are you a member of the Athletic Board?

[fol. 1070] A. Yes; I am.

Q. How long have you been a member of that Board?

A. Since 1946 or '47.

Q. Would you—

A. Right after the War.

Q. Would you give the Reporter the personnel of that Board, if you can remember the entire list?

A. Mr. Bolton, Mr. Driftmier, Mr. Biscoe, Mr. Mills, Dr. Scott, Mr. Sankin—Georie Sankin has been a member—Mr. Tommy Parris, Mr. Bradshaw.

Q. Is Dr. Aderhold a member of that Board?

A. He is chairman of the Board.

The Court: How many are professors are connected with the University and how many are alumni?

The Witness: The majority.

The Court: Can you break them down that way?

The Witness: The majority of the Board has to be connected with the University.

Mr. Cody: Faculty members?

The Witness: Faculty members of the University.

[fol. 1071] By Mr. Cody:

Q. What is the purpose of the Athletic Board, Mr. Heckman?

A. To administer the athletic program of the University, the intercollegiate program.

Q. How long have you known Wallace Butts?

A. Since 1946. He came one year while I was away.

Q. Have you known him intimately during that time?

A. I have known him; I wouldn't say intimately; I have known him; I have met with him very often. I have had very numerous meetings, consultations with him. I would say I know him very well.

Q. State whether or not you know the general character of Wallace Butts?

A. I think I do.

Q. Is it good or bad?

A. I would say now it is bad.

Mr. Schroder: If the Court please, I think the proper question is reputation, is it not?

The Court: No; it's character, Mr. Cody—Mr. Schroder.

Mr. Schroder: Well, I just—

By Mr. Cody:

Q. Could you state to the jury—

The Court: The proper question is: Please state whether you know the general character of the witness in the community in which he lives. That witness' answer

is "yes" or "no." What is that character, good or bad?  
And then—

Mr. Schroder: That's right.

Mr. Cody: You reading Code Section 1804?

The Court: Yes, sir, I am familiar with that. I was reading from Professor Green's book on Evidence, taken from the Code section.

By Mr. Cody:

Q. Mr. Heckman, would you tell the jury whether or not, from that character, you would believe Mr. Wallace Butts on oath?

A. I would not.

Q. How long did you say you had been a member of the Athletic Board?

A. Since immediately after the War, about 19—either 1946 or '47.

Q. Will you state to the jury whether or not this opinion that you have expressed with respect to Mr. Wallace Butts' character, if that applies prior to this Bryant affair?

Mr. Schroder: I don't think—

The Court: I don't think you can go any further. I think the law limits you to the questions you propounded. [fol. 1073] Mr. Cody: I think you are right, Your Honor.

By Mr. Cody:

Q. Have you observed—as a member of the Athletic Board, have you formed any opinion with respect to whether or not the conduct of Wallace Butts has hurt the University of Georgia?

Mr. Lockerman: Your Honor—Your Honor please—

The Court: I don't think that is a proper question.

Mr. Cody: I think it is.

The Court: Let the jury go to the jury room.

(Whereupon the jury retired from the courtroom at 1:59 p.m.)

Mr. Cody: Your Honor—if Your Honor has any doubt about it, I will withdraw it. I admit it's a debatable question.

The Court: Yes, sir; I do have doubts about it.

Mr. Schroder: Well, bring them back in.

[fol. 1074] The Court: Let them—if there is—while they are out, if there is any other question on this, I think now is the time.

Mr. Cody: He has—he has stated in his direct-examination, Mr. Schroder, that he has never done anything to hurt the University of Georgia.

The Court: Yes, sir; but under—under character, as I understand it, the way you—

Mr. Cody: We are beyond—

The Court: —are limiting it, under the Cox versus Strickland case in 101 Georgia, and I think that is the leading case not only in Georgia law, all the Federal courts have allowed it. But you are limited to these particular questions.

Mr. Cody: We are beyond the character evidence now. I was getting off into something else.

The Court: But you were bordering—you were bolstering your character evidence, as I understood your question.

Mr. Cody: I was not—that was not my purpose.

[fol. 1075] The Court: Well, you were—it is my recollection your question was: Have you noticed his conduct, on the Athletic Board, as a member of the Athletic Board, have you noticed his conduct? And I don't think that is admissible.

Mr. Cody: I will withdraw the question.

\* \* \* \* \*

Examination.

By the Court:

Q. How many members of the Board are there?

A. I believe it's nineteen.

Q. And the majority—

A. Are faculty.

- Q. —are faculty?  
 A. Connected with the University.  
 Q. And the others are alumni? How are the others appointed, two by the Alumni Association?  
 A. Yes, sir.  
 Q. And the others appointed by whom?  
 A. By the President, I believe.  
 Q. The President?  
 A. Yes, sir.

\* \* \* \* \*

WILLIAM THOMAS BRADSHAW called as a witness on behalf of the defendant, after having first been duly sworn, testified as follows:

[fol. 1076] Direct examination.

By Mr. Cody:

- Q. Mr. Bradshaw, will you give the Court Reporter your full name?  
 A. William Thomas Bradshaw.  
 Q. Where are you from, Mr. Bradshaw?  
 A. Canton, Georgia.  
 Q. Canton?  
 A. Yes.  
 Q. Are you an alumnus of the University of Georgia?  
 A. Yes, sir.  
 Q. When did you finish?  
 A. 1951.  
 Q. Did you play football?  
 A. Yes, sir.  
 Q. Were you there while Mr. Wallace Butts was coach?  
 A. Yes, sir.  
 Q. Are you a member of the Athletic Board of the University of Georgia?  
 A. Yes, sir.  
 Q. How long have you been a member of that Board?  
 A. January of '61.

Q. In January of 1963, did you have an opportunity to have a conference with Mr. Wallace Butts?

A. Yes, sir.

Q. Where did that conference take place?

A. Mr. Cook Barwick's office.

Q. Here in Atlanta?

A. Yes, sir.

Q. Can you pinpoint the date for us?

A. The 18th—I believe it was the day of the Touchdown [fol. 1077] Club banquet that night; I believe the 18th, Saturday.

Q. The 18th?

A. Yes, sir; I believe so.

Q. Was anyone present other than you and Wallace Butts?

A. Mr. Barwick; yes, sir.

Q. Did he subsequently leave the meeting, Mr. Barwick?

A. No, sir.

Q. Do you remember the subject matter of that discussion?

A. Yes, sir.

Q. Will you tell us what it was.

A. It had to do with our bringing it to Coach Butts' attention that it might be wise for him to resign as athletic director of the University of Georgia.

Q. What did he say?

A. He said he would contact Dr. Aderhold and would comply with his wishes.

Q. Did you acquaint him at that time with the reason for that request?

A. Yes, sir.

Q. Were you speaking individually or for the Board of—

A. We were asked by the Executive Committee of the Board to speak to Coach Butts.

Mr. Lockerman: If Your Honor please, I don't think he ought to go into any conversation he had outside the presence of the plaintiff.

The Court: I will let him state his authority for talking [fol. 1078] to him. You were authorized by the Executive Committee of the Athletic Board?

The Witness: To speak to Coach Butts on this subject; yes, sir.

The Court: And you were complying with that request?

The Witness: Yes, sir.

By Mr. Cody:

Q. What was the reason for making this request?

A. There were several.

Mr. Schroder: I don't think their reason would be relevant unless that was pointed out.

Mr. Cody: That is what I am trying to get to.

Mr. Schroder: Ask it that way.

The Court: Just a moment; just a moment.

Mr. Schroder: Your Honor, he is—

The Court: I will let him ask whether or not he stated [fol. 1079] to Coach Butts in Coach Butts' presence the reasons for the resignation.

The Witness: Yes, sir.

By Mr. Cody:

Q. You did?

A. Yes, sir.

Q. What was that reason?

A. That Coach Butts' many business interests were taking so much of his time away from his duties as athletic director, the fact that he had become involved with loan companies, and this has been brought out in the newspapers in Atlanta which didn't do anything for his image as an athletic director of the University. I believe those were the main two.

Q. Can you recall any others?

A. Not that we said to Coach Butts. There were others mentioned at the Executive Committee meeting, but we didn't see any sense in bringing them up at this time.



Q. Do you—do you know whether or not Coach Butts thereafter went to see Dr. Aderhold? Don't go into any conversation with him if you were not present, but do you know whether or not—

A. He went to see Dr. Aderhold.

Q. Did Coach Butts thereafter resign?

A. Yes, sir.

Q. Now, what was the date on that resignation?

A. That would be effective either June 1st or June 30.

Q. What date did he resign, not the effective date?

[fol. 1080] A. Oh, this was the following Monday after our conversation.

Q. That would be the 20th?

A. Yes, sir.

The Court: You all speaking—are you referring to January or February?

The Witness: January 20.

Mr. Cody: January 20.

The Witness: Yes, sir; January 20. I would like to say this—

Mr. Schroder: Wait a minute, now, I think—

The Court: I think the orderly way to conduct it, Mr. Bradshaw, is to let Mr. Cody ask you the question and you answer.

The Witness: I was going to explain.

The Court: That is all right. You want to explain a previous answer?

The Witness: Yes, sir.

[fol. 1081] The Court: You can explain your previous answer.

The Witness: I know that he went to see Dr. Aderhold the following Monday. I know that he did resign, and I feel certain that it was at this time that he did turn in his resignation in the form of a letter.

By Mr. Cody:

Q. Are you familiar—

Mr. Schroder: I think the letter would be the highest and best evidence, if we are going into the contents of the letter, unless this witness—

By Mr. Cody:

Q. Mr. Bradshaw—

The Court: Isn't that letter in evidence?

Mr. Cody: That is another letter.

Mr. Schroder: I don't think it is—I say that would be the highest and best evidence, the contents of the letter would be the letter itself.

The Court: Yes, sir; I was under the impression that letter was in evidence.

[fol. 1082] Mr. Cody: That is another letter you have reference to. That is the one of February—

The Court: I excluded that testimony, then, if—the letter would be the highest and best evidence. I sustain the objection.

By Mr. Cody:

Q. Mr. Bradshaw, will you explain to the Court, state to the Court whether or not at the time you had this conversation with Coach Butts on January 18 you had any knowledge, directly or indirectly, of the Bryant affair which later came to light?

A. No, sir; I have no knowledge.

Q. This preceded?

A. Yes, sir.

Q. Now, when the—when the so-called Bryant affair came to light, which is involved in this case, do you know whether or not Coach Butts submitted another resignation effective at an earlier date?

A. Yes, sir.

Q. Do you know what effective date that was?

A. Towards the latter part of February, effective immediately, as well as I recall.

Mr. Schroder: I again say—

The Court: Is that the resignation that is in evidence? [fol. 1083] Mr. Schroder: I don't know whether that letter is in evidence or not. If it is not, it would be the highest and best evidence.

The Court: If he has seen the letter—

Mr. Schroder: No, sir; he has got the letter itself, and it would be the highest and best evidence.

Mr. Cody: It is already in.

The Court: It is already in? I will let him state a letter of resignation was submitted.

By Mr. Cody:

Q. Mr. Bradshaw, did you attend what is known as a Georgia Touchdown Club meeting in Jacksonville, Florida, when Coach Butts made a speech?

A. No, sir.

Q. Did you attend an Atlanta Touchdown Club meeting on January the 15th, 1963?

A. Yes, sir.

Q. Do you know whether or not Coach Butts made a speech at that meeting?

A. Not a speech; no, sir. Darrell Royal, director of athletics at the University of Texas, made a speech, and Coach Butts may have said something in behalf of Mr. Royal.

Q. Will you state to the Court whether or not you have attended any Touchdown Club meetings of the University [fol. 1084] of Georgia alumni where Coach Butts made any comment about the Athletic Board or the coaching staff of the University of Georgia?

A. No, sir; not any gatherings of that nature.

Q. Did you attend the football scrimmage on September 15—

A. Yes, sir.

Q. —before the Alabama-Georgia game of 1962?

A. Yes, sir.

Q. Where was that scrimmage held?

A. On the regular practice field on Ag Hill.

Q. Was that a sort of closed bull session?

A. Yes, sir; except to people invited by the coaches.

Q. Do you know whether or not Coach Butts attended that practice?

A. Yes, sir; he, along with the rest of the Board, Athletic Board.

Q. Did you see the entire practice that afternoon?

A. Yes, sir.

Q. Do you know whether or not Georgia used, in that practice, the plays they intended to use in the Alabama game?

A. No, sir—I am sure they must have, but I don't know play-for-play that they did.

Q. Mr. Bradshaw, would you state whether or not you are familiar with the general character of Wallace Butts?

A. Well, insofar as being associated with him as my coach and then as athletic director, I would to that extent, Mr. Cody.

Q. From that knowledge, can you state whether or not—  
[fol. 1085] The Court: I don't believe that is a proper question. I think you have got to ask the question: Do you know the character and reputation of the plaintiff or the witness, whoever it might be, in the community in which he resides, and the community, of course, doesn't mean confined to the exact community, it is co-extensive with his reputation, but I think you have got to propound the question, Mr. Cody, exactly as the Code sets out.

Mr. Cody: I'd like to call Your Honor's attention to one decision that varies from that.

The Court: Well—

Mr. Cody: It is not necessarily in the community where he lives.

The Court: I didn't say that. I said it is co-extensive with his reputation.

Mr. Cody: I see.

The Court: It can be all over the State or all over the United States. I think you would have to confine yourself to the Code. I mean: Do you know the character and reputation in the community? And you can explain what the community would be.

[fol. 1086] By Mr. Cody:

Q. Do you think you are familiar with his general character in the community?

A. Character or reputation?

The Court: Character, character.

A. (By the witness) I believe so.

Q. From that knowledge, can you state whether or not it is good or bad?

A. I would say "bad."

Mr. Cody: I believe that's all.

The Court: All right, sir. Just a moment—just a moment, Mr. Bradshaw.

Mr. Schroder: No questions.

The Court: No more questions. You may step down, Mr. Bradshaw.

Mr. Cody: Let me ask you one more question.

The Court: You will have to come back to the stand, Mr. Bradshaw.

By Mr. Cody:

Q. Have you—have you been present at any meetings [fol. 1087] where critical remarks have been made by Coach Butts about the University of—

Mr. Schroder: I thought this question had already been asked, and he answered that question. I believe he asked him about speeches. I believe I am correct on that.

The Witness: Yes, sir.

By Mr. Cody:

Q. You have?

A. Yes, sir.

Q. Where was that?

A. One was last year, the night before the Florida-Georgia game in Jacksonville. A Georgia party in the Roosevelt Hotel.

Q. I'd like to ask you one more question, Mr. Bradshaw. Will you tell the Court whether or not, from the general character of Wallace Butts about which you testified, that you would believe him on oath?

A. I don't believe so.

Mr. Cody: I believe that's all.

Mr. Schroder: I didn't understand the answer.

The Court: Sir?

Mr. Schroder: I didn't understand the answer.

[fol. 1088] The Court: He said he didn't believe so.

Cross examination.

By Mr. Schroder:

Q. You know Charlie Trippi?

A. Yes, sir.

Q. You believe him under oath?

A. I believe so.

\* \* \* \* \*

R. H. DRIFTMIER called as a witness on behalf of the defendant, after having first been duly sworn, testified as follows:

Direct examination.

By Mr. Cody:

Q. Mr. Driftmier, will you give the Court Reporter your full name?

A. R. H. Driftmier.

Q. Where are you from, Mr. Driftmier?

A. Athens, Georgia.

Q. Are you a member of the faculty at the University of Georgia?

A. Yes, sir.

Q. What are your responsibilities there?

A. I am head of the Department and head of the Division of Agricultural Engineering.

Q. How long have you been connected with the University?

A. Since September, 1930.

Q. Continuously?

[fol. 1089] A. Yes.

Q. The position you have just described, is that one you now hold?

A. Beg pardon?

Q. The position with the University which you have just described, is that one which you now hold?

A. The head of the Department since 1930, the chairman of the Division since 1950 when the College of Agriculture was reorganized.

Q. Are you a member of the Athletic Board?

A. Yes, sir.

Q. How long have you been a member?

A. Since about 1935.

Q. As a member of that Board, have you constantly come in contact with Wally Butts?

A. I have.

Q. In connection with matters pertaining to the University?

A. That's right.

Q. And to the athletic program?

A. That's right.

Q. Please state, Mr. Driftmier, whether or not you know the general character of Wallace Butts in the community.

A. I think I do; yes.

Q. From that knowledge will you state whether or not that character is good or bad?

A. Bad.

Q. From that knowledge of his character, would you state to the Court whether or not you would believe him upon his oath?

A. I would not.

Q. You would not?

A. I would not.

Q. In your services to the University as a member of [fol. 1090] the Athletic Board, have you ever heard Wallace Butts make any critical remarks about the University?

A. I have.

Q. Was that an isolated occasion, or would there be others?

A. About every time the Board of Directors met.

Mr. Cody: I believe that's all.

The Court: All right, any questions, Mr. Schroder?

Cross examination.

By Mr. Schroder:

Q. What is your name, sir?

A. Driftmier.

Q. Driftmier?

A. Right.

Q. You live in Athens?

A. Yes, sir.

Q. You know Charlie Trippi?

A. Yes, sir.

Q. You believe him under oath?

A. I don't know enough about Charlie Trippi.

Q. Do you know Mickey Babb?

A. Beg pardon?

Q. You know one of your students, Mickey Babb?

A. I do not.



Q. Do you know your football captain, Ray Clark?

A. I do not.

Q. Do you know Wallace Williamson?

[fol. 1091] A. No; I do not.

Q. Brigham Woodward?

A. No.

\* \* \* \* \*

DR. O. C. ADERHOLD called as a witness on behalf of the defendant, after having first been duly sworn, testified as follows:

Direct examination.

By Mr. Cody:

Q. Dr. Aderhold, will you give the Court Reporter your full name, or initials, if you like?

A. O. C. Aderhold.

Q. What is your position with the University of Georgia, Dr. Aderhold?

A. President.

Q. How long have you been President?

A. Well, 1950—thirteen years.

Q. What part of the State are you from, Dr. Aderhold?

A. I am from Lavonia; Franklin County.

Q. Did you attend the University of Georgia as a student?

A. Yes, sir.

Q. When did you finish?

A. Well, I went there as a freshman in 1919; finished Bachelor's Degree in '23; and then did some work on a Master's Degree until '30 in the summers, and received a Master's degree at that time.

Q. I should be ashamed to ask you that question because—

[fol. 1092] Mr. Schroder: I can't hear either one of them, Your Honor.

The Court: Speak out a little bit louder, please, sir.

By Mr. Cody :

Q. Are you a member of the Athletic Board?

A. Yes, sir.

Q. Are you what they term the ex-officio chairman?

A. No; I am chairman by the document that sets up the Board, the charter.

Q. Is it a fair statement today, Dr. Aderhold, that you have, in recent years, kept in close touch with the athletic program of the University.

A. Yes, sir.

The Court: Doctor, you will have to speak out a little louder, if you don't mind.

A. (By the witness) Yes, sir.

Q. Do you recall whether or not Wallace Butts came to you on or about January 20 of this year?

A. Yes, sir.

Q. Did he?

A. He did.

Q. Did he at that time—did you have a discussion with him at that time concerning a conference he had had with Mr. Bill Bradshaw a day or two before?

A. I don't believe he referred to any conference, but he called me on Sunday night and asked to come out to see me Sunday night, and I told him that I couldn't see him Sunday night because we had a visitor there and a dinner party, [fol. 1093] but I'd see him early Monday morning; and so he came to the office at 9:30 Monday morning and I saw him at that time.

Q. Was this or not sometime before the Bryant affair came out?

A. Yes, sir; it was.

Q. Now, what happened at that meeting that you had with Coach Butts, or, I should say—he was the athletic director at that time?

A. Let me check the other question, please, sir.

Q. Go ahead.

A. Yes; the date is right; I do recall now. This was before the other matter came up.

Q. What happened at that meeting?

A. Well, he said he wanted to talk with me about a problem or problems that he had; that he should have come to see me earlier or should have talked with some of the Board members earlier, but that he had some problems that he wanted to discuss with me. And he had always felt free to talk with me about his problems when he had them. Essentially that was the beginning of the conference.

Q. Will you state whether or not any particular action was taken at that conference?

A. No; no action. We discussed some possibilities, and I believe that is as far as that went at that time.

Q. Will you give us— Will you give us the extent of that discussion?

A. Well, the discussion involved several problems, as enumerated by him or that came out of our common discussion. Now, do you want me to comment on those?

Q. Just state what—just state what problems he told you he had.

A. Well, I think the first one he told me about, and spent [fol. 1094] a good deal of time talking about, was his financial situation, and that it was serious, and that if anything happened to his job that this financial structure that he had would fall in, I believe were about the words that he used.

Q. Do you recall whether or not, at that meeting, that he resigned?

A. No, sir; he did not. He asked my advice about what he should do, as we talked about some of these problems. This conference lasted about two hours or two and a half.

Q. Dr. Aderhold, have you ever been present at any—well, I will withdraw that question. Will you state to the Court whether or not you know of the general character of Wallace Butts in the community?

A. Phrase your question again; I'm not sure I understood it.

Q. I asked you to state whether or not you knew the general character of Wallace Butts in the community?

A. Well, I would say it's not good.

The Court: That's not the proper way to answer it, Doctor.

By Mr. Cody:

Q. Just say you do or you don't. I will get to that next.

A. I think it's not good.

The Court: That is still not—the question he asked you is, do you know; and then he can ask you any further question. [fol. 1095] The Witness: Yes; from the contacts I have; I do.

The Court: All right, sir.

By Mr. Cody:

Q. Now, will you state, from that knowledge, whether or not it is good or bad?

A. I'd say it's bad. I would like to make an addition to that.

Q. Make whatever comment you want.

The Court: No, sir; he can't make any addition to it. That's all. The Code section—

Mr. Cody: All right, sir.

By Mr. Cody:

Q. Dr. Aderhold, could you state whether or not you recall hearing Coach Butts make any remarks about the University?

A. At this meeting?

Q. No; I mean at any time. I would say since 1960; I would limit it to some time.

A. Well, I have heard of remarks that he's made. I don't recall—

The Court: That wouldn't be admissible. Have you heard him make any remarks himself, Coach Butts? I presume you mean of the Athletic Association, don't you, or the University?

[fol. 1096] By Mr. Cody:

Q. Of the University, or the Athletic Board, or the coaching staff?

A. No, sir; I have not.

Q. Have you, as President of the University, and as a member of the Athletic Board, have you had constant contact with Wallace Butts?

A. What do you mean by "constant contact"?

Q. Well, what contact have you had with him? How often would you see him?

A. Well, it depends, I think, on what the situation was. I would say two or three or four times a year on the average, all the years, but it might be in some cases once or twice during the year; other times it might be half a dozen or more times. You mean as it relates to the business—

Q. Right.

A. —of the operation of the Athletic program?

Q. Yes, sir. Did you bring with you, Dr. Aderhold, in response to a subpoena, a letter that you received from Coach Butts while he was athletic director, his letter of resignation?

A. Yes, sir; I did.

Q. Do you mind if I see that? That's the same one, isn't it? Do you mind if I handle your file just a minute? I'll give it back to you.

Mr. Cody: Your Honor, this is the original of a letter which has already been admitted and which has been identified as a defendant's exhibit, but I want to ask him several questions about it.

The Court: All right, sir.

[fol. 1097]           By Mr. Cody:

Q. Dr. Aderhold, it is stated in this letter that Wallace Butts had developed business interests. Do you know—did he tell you what those interests were?

A. Well, he talked about several, and I'm not sure that I could name them all, but a considerable part of the discussion about business related to an orange grove facility or operation in Florida; some about loan companies. I believe those were the two main ones. I know there was something about somebody, or some business at Lakeland, Florida, or Lake City, Florida, I don't remember which. Those were the main ones.

Q. As executive head of the University of Georgia, and as executive head of its athletic program, will you state, Dr. Aderhold, whether or not, in your opinion, these interests prevented him from fulfilling the responsibility that he had as athletic director?

A. Yes, sir; he said so.

Mr. Cody: May I take just a moment, Your Honor?

The Court: Yes, sir.

Mr. Cody: There's a good deal that's been produced.

The Court: In the meantime—Doctor, you may step down just a moment, please, sir. In the meantime, we will take a recess for fifteen minutes.

Members of the jury, I must admonish you, as previously, not to discuss this case among yourselves, or permit anyone [fol. 1098] to discuss it in your presence. Simply dismiss it from your mind during the fifteen-minute recess, at which time you will return to the jury box at 3:00 o'clock. Let the jury pass out; everyone else remain seated.

(Whereupon the jury retired from the courtroom at 2:44 p.m.)

The Court: We will recess until three o'clock.

## After Recess

The Court: All right; you may go back to the stand, Doctor.

Mr. Cody: Will you identify this for me?

The Clerk: Yes, sir.

Mr. Cody: That really ought to be given the same number as that.

The Clerk: Defendant's Exhibit No. 20 is identified as a copy, and this is the original?

Mr. Cody: Yes, sir.

[fol. 1099] The Clerk: Would you like to make this one—

Mr. Cody: 20.

The Clerk: All right, sir.

The Court: I am informed by the Clerk that one of the letters—I believe it was a copy—

The Clerk: It was this one.

The Court: —has been identified, but had not been introduced.

The Clerk: This is Defendant's Exhibit No. 20.

Mr. Cody: We are substituting the original, giving it the same exhibit number.

The Court: Any objection to the original in lieu of the copy?

Mr. Schroder: Of course not.

The Court: All right, sir.

[fol. 1100] The Clerk: Original letter dated February 23, 1963, to Dr. Aderhold from Wallace Butts.

(Whereupon the document above referred to was marked for identification only as Plaintiff's Exhibit No. 20.)

By Mr. Cody:

Q. Dr. Aderhold, I show you the Defendant's Exhibit No. 20, and ask you if that is the letter that you received from Wallace Butts?

A. Yes, sir.

Q. Do you remember a meeting which occurred on February the 22nd, 1963, in Mr. Cook Barwick's office?

A. There are so many dates, I had better check, I think. Yes; I remember the 22nd.

Q. Do you recall who was present at that meeting?

A. Yes, sir. Those present were Coach Butts, Mr. Bolton, Mr. Hartman, Mr. Dunlap, Mr. Bernie Moore.

Q. Is Mr. Dunlap from Gainesville?

A. Yes, sir; Mr. James Dunlap, Chairman of the Board of Regents, from Gainesville; Chancellor Harmon W. Caldwell, of Atlanta; and Mr. Bernie Moore, of the Southeastern Conference. I believe that is the group that was there.

Q. Will you state to the Court what the purpose of that meeting was?

A. Well, the purpose was to talk with Coach Butts about the information which had come to us, beginning with Mr. Burnett, and had been discussed by several members of this [fol. 1101] same group on two or three occasions prior to this particular date.

Q. Do you know whether or not Coach Butts was made acquainted with the nature of the Burnett story?

A. At this meeting?

Q. Yes, sir.

A. Yes, sir; he was.

Q. How was that meeting handled?

A. Coach Butts came over to Atlanta with Mr. Bolton and me, and I opened the meeting by saying that some information had come to us regarding a proposed telephone conversation, and that Mr. Cook Barwick had directed—handled a study of the report on the situation, and that I would like to turn the meeting over to him for handling; and I did.

Q. Was he a member of the Athletic Board?

A. Yes, sir.

Q. And was he attorney for the Board?

A. Yes, sir. The Executive Committee of the Board asked him to serve as attorney for this study and investigation.



Q. At that meeting, do you know whether or not Coach Butts was shown these notes of Mr. Burnett's?

A. Yes; he was handed the notes.

Q. Can you state to the Court what statement he made, if anything?

A. Well, he looked over them and we talked, I guess, about an hour, and there were many things said. I think he started out by saying that "This is just general football talk," and I think that, as I recall it, that he said, "I guess I talked with him over the phone," or "I probably talked with him over the phone," referring to Coach Bryant, "and I can understand how somebody listening may have made [fol. 1102] these observations, but I want to assure you I had no intention of hurting the University of Georgia, or giving them any information about the University of Georgia athletic team or program."

Q. Did you go into a detailed discussion of some of the items in this note—in these notes?

A. What do you mean by "detailed"?

Q. Well, did you discuss any items that were mentioned in the notes?

A. Well, I couldn't name a specific item, but Coach Butts was talking about various phases of the situation, and actually demonstrating some of the techniques used, and that sort of thing, in coaching.

Q. Did you discuss with him whether or not Coach Bryant called him back on a Sunday night?

The Court: Was it Sunday night, or—

By Mr. Cody:

Q. On the following Sunday, September 16.

A. Yes, sir; I believe—may I look at the notes here?

Q. Yes; you may refresh your recollection from any memoranda that you have.

A. Well, I made these notes some several days after the meeting, and essentially the notes say that more than two

hours was involved in the discussion. Coach Butts devoted a considerable part of that time in the discussion of football, and how coaches discuss games, and so on. He indicated that the call was made, and that these items were probably discussed, but they did not mean what Mr. Burnett had indicated that they did mean.

[fol. 1103] Q. Was there anything said about Coach Butts signing an affidavit?

A. The notes I made on that—may I do a little background on the question?

Q. Go ahead.

A. Mr. Barwick was handling the questioning, and prior to the meeting, or the afternoon before, he indicated that he was going to ask Coach Butts if he would do the two things which Mr. Burnett had done. Now, whether or not he asked for both of these things at that time, I am not clear, for this reason. My notes indicate that he did ask regarding the affidavit and the polygraph test, or lie detector test, at the same time. That is the way my notes indicate, and Coach Butts said, no, he would not. And then there was some discussion about the lie detector test which Coach Butts indicated he would not take. I have not talked with Mr. Barwick specifically about this, but I noted that there was an indication in the Cook report, the Eugene Cook—

The Court: No, sir; we can't go into that.

By Mr. Cody:

Q. Don't go into that.

A. Okay. May I say, Your Honor—can I say—

Q. Make any explanation you want.

The Court: I don't want you to get into the Cook report.

The Witness: I just understood it was possible that Mr. Barwick asked only the one question. If so, if he asked only [fol. 1104] the one question, then it was not to the lie de-

tector test because I know that was discussed, and I think the other was, and I so noted it at that time.

By Mr. Cody:

Q. Dr. Aderhold, as Chairman of the Executive Committee of the Athletic Board, did you authorize Mr. Bill Bradshaw and Mr. Barwick to have a talk with Coach Butts prior to this time, back in early January?

A. This goes back to a meeting of the Executive Committee on January 5, I believe.

Q. 1963?

A. 1963. The Executive Committee met and discussed many of the problems of our athletic program, and reviewed some of the situations, some of the alumni reports and Board member reports, and several rather specific comments were made by Coach Butts, whether or not he was helping or hurting the athletic program, and what was being said, and so on. So, out of that discussion, which lasted from 10:00 o'clock to about 4:00 in the afternoon, with an interruption for lunch, it was decided that somebody should discuss all of these issues with Coach Butts, let him know what the Executive Committee had talked about, the specific terms that we had talked about, and discuss it with him before the meeting of the Board in January—January the 28th, which was up-coming.

And there was some discussion as to who should do that, and the decision was—they requested Mr. Bradshaw, who was there as a member of the Coaching Committee, if he and—I think he was asked if he and Mr. Cook Barwick would sit down and talk with Coach Butts about these issues [fol. 1105] and problems, and get his reaction. So, we did not direct him, but in the discussion he agreed to talk with Mr. Barwick, and I later understand that they did talk with him.

Q. Did you outline to that Committee the area of the discussion to have with Coach Butts?

A. No, sir; I did not outline it, but Mr. Bradshaw was in the meeting during the discussion, and knew what the problems were that we were discussing.

Q. He was the one speaking for the Executive Committee?

A. Well, he and Mr. Barwick.

Q. Barwick?

A. Yes, sir.

Q. Now, did, shortly—did you have your full meeting on February the 28th, your Board meeting?

A. Yes, sir.

Q. Coach Butts there?

A. Yes, sir—you mean January the 28th?

Q. January 28th.

A. Yes, sir.

Q. This was prior to any of the—any knowledge of any Bryant affair; this was January the 28th, I believe you said?

A. Well, at that time I knew about the Bryant thing on the 28th; I knew about it in the sense that the notes had been given to me. I had had a meeting with Mr. Cook Barwick and had gone over the notes with him, in company with Mr. Bolton, but that is—and he said he would begin an investigation, looking into it.

Q. There was no notice of the Bryant affair on the January the 5th meeting?

A. No, sir; or the January 20th.

[fol. 1106] Q. Now, what happened at that meeting on the 28th, January the 28th?

A. Well, several things happened. The minutes of the Board—I have these listed, and I do not have the minutes with me, but if you are referring specifically to Coach Butts, I can—I think I can relate that—

Q. Give us—

A. —about as it is.

Q. Give us the substance of that.

A. I can check it in the minutes. Coach Butts indicated

to the Board that he had become engaged in many business activities which were requiring a great deal of his time, and that he would like to be retired as of June 30th, and retired after that time. He, I believe, did not expand very much on those reasons, but they are in the minutes of the Board, if you want to check those.

Q. Is that the primary problem that you discussed at that meeting his retirement?

A. No; there were—well, I don't know how you class them as primary or secondary; we talked about several matters.

Q. What other problems did you discuss with him at that meeting?

A. With Coach Butts?

Q. With Coach Butts.

A. I think most of the rest could be classified as routine matters, business of the Athletic Board. Maybe I had better check that—I think that's right.

Q. All right; check that.

A. Yes; I think other than just sort of general routine matters that that was all that was discussed at that meeting. There was an Executive Committee meeting following this [fol. 1107] meeting, at which some other matters were discussed which grew out of this question.

Q. Did you attend the Executive Committee meeting?

A. Yes, sir.

Q. What did you discuss with Coach Butts at that meeting?

A. Coach Butts was not at the meeting.

Q. I see.

A. And I—

Q. I wouldn't want—

A. And I think to point—

Mr. Schroder: Just a minute. Mr. Butts was not at that meeting.

The Court: That would not be admissible unless it illustrates another issue, refutes testimony that's been previously given, but I can't see that. I mean, certainly if he wasn't present it would be hearsay.

By Mr. Cody:

Q. Do you recall whether or not there was any discussion at that January 28th meeting as to some of Coach Butts' associations?

Mr. Schroder: What meeting are we talking about? Are we talking about the Executive meeting?

The Court: Are you referring to the Executive meeting? [fol. 1108] Mr. Cody: No, sir; I'm talking about the Board meeting that Coach Butts was present at on January 28th.

The Court: He was present—

Mr. Cody: Yes, sir; he was present. He's already testified about that.

The Court: If he was present, I will let him testify to that.

A. (By the witness) No; there was no discussion that I recall at that meeting.

Q. Prior to the January 28th full Board meeting, did you have any personal discussion with Coach Butts about the up coming meeting?

A. You are referring back to the January 20th meeting when Coach Butts visited me in the office?

Q. Yes, sir.

Mr. Schroder: What game are we talking about?

The Court: January 20th.

Mr. Schroder: I thought he said up-coming game.

Mr. Cody: I didn't say that.

[fol. 1109] The Court: No, sir; he didn't say "game."

By Mr. Cody:

Q. Tell the Court about any personal discussion you had with Coach Butts with reference to the meeting of January 20th, prior, just prior to the January 20th meeting.

Mr. Schroder: May I inquire as to the relevancy of this, Your Honor?

The Court: I don't know, but is that the meeting you have been into, where Coach Butts came to his office on Monday morning?

Mr. Cody: Yes, sir; we have only touched on it. I want to get the substance of that meeting, the full substance of that meeting.

The Court: Between Coach Butts and Dr. Aderhold?

Mr. Cody: Yes, sir; no one else present.

The Court: Sir?

Mr. Cody: No one else present at that meeting.

[fol. 1110] The Court: Yes, sir; I thought you had been into that.

Mr. Cody: Not fully; no, sir.

The Court: I will let you go ahead.

Mr. Schroder: I still inquire as to what the relevancy of it is, Your Honor.

Mr. Cody: We can't tell.

Mr. Schroder: What's all this got to do with it?

The Court: I don't know whether it refutes testimony as to whether he's spoken against the University, or any of that, I can't tell, but I will let him proceed as long as it is relevant; if it is not relevant, I will rule it out.

By Mr. Cody:

Q. Go ahead.

A. Well, there were four or five matters discussed, some of them I believe brought up by Coach Butts, or alluded to by him, and some that I brought up as coming to me from alumni, Board members and others.

Q. I want to know what the substance was.

[fol. 1111] Mr. Schroder: Is this supposed to be in contradiction to something that has already been testified to?

The Court: I assume it is on the question of when he resigned and why he resigned.

Mr. Schroder: I thought we had been through all that on another meeting.

The Court: I don't know whether it is the same meeting. That is what I was making inquiry about.

Mr. Schroder: Let's try to restrict the witness, then, to the area about which he can testify, because I have no idea what he is going into. It may not have any relevance to the case at all. I can't—

The Court: Neither can I and I can't tell until he testifies.

#### Examination.

By the Court:

Q. Is this the meeting you have discussed that happened on Monday morning following the discussion with Coach Butts on Sunday night?

A. Yes, sir; this is the meeting.

Q. Is it anything different that you testified to concerning prior to the recess?

A. Well, as I recall it, Mr. Cody asked me what was [fol. 1112] the primary matter discussed, and I commented on that as the first item which Coach Butts opened up the discussion with, and that was the matter of his being involved in—

Q. You didn't complete that. You didn't complete what all transpired during the meeting.

A. I didn't know what exactly he meant by "primary" and he didn't ask me any further thing. I didn't know—

The Court: I believe it is relevant as to what the terms of the resignation were.



Mr. Schroder: May I approach the bench with Mr. Cody, Your Honor?

The Court: Yes, sir.

(Whereupon a conference was held at the bench between the Court, Mr. Schroder and Mr. Cody.)

The Court: You may proceed.

By Mr. Cody:

Q. Go ahead, Dr. Aderhold. Just tell us the substance of these other areas of your discussion on that occasion; don't go into any detail.

A. Well, I am sure I will not get them in the order in which we talked about them. One was this financial situation, and I believe that an hour of the time was devoted to that. He told me in great detail or in considerable detail what the financial—what his financial situation was and how precarious it was, and that if the Board were to fire him or if he were to resign, then this whole structure would fall down or crumble down on him. Those are not the exact words, but that was the essence of it. And we talked about that a little and he gave me some figures which I put on a card, and it, to me, looked bad too, and then he went back to his original comment: "What advice would you give me? I came for advice, and what would you advise?" And on this particular thing I said, "Well, Coach, this is completely beyond me; I don't know, this is involved." And I believe we added up, I did, somewhere around seventy-five to a hundred thousand dollars, and he indicated where these notes were, some of them, and what the conditions were involving them, and my recommendation on that, when he came back to it, was that, "Coach, I don't know of anybody that is any better to advise you about these matters than Bill Hartman. He is a man that you have confidence in, and he's a businessman who knows something about these figures." And he said,

“Yes, I know that; I have consulted with Bill some.” And my recommendation was that he go talk to Bill about that. Then on the other items, whether—

Mr. Schroder: If the Court please, unless this is related to some resignation, I don’t know what the relevancy would be.

Mr. Cody: That is what we are leading up to.  
[fol. 1114] The Court: I will let him proceed for a while, Mr. Schroder.

By Mr. Cody:

Q. Don’t go into any great detail; just give us the substance of it.

A. Well, the matter of reported criticism of Coach Butts of the athletic situation, we discussed that back and forth, commenting upon the reports that had come to me and come to members of the Board that he was critical of Coach Griffith and the coaching staff and others, and on that particular point I think I emphasized the fact that we had a great deal of criticism about his being critical of Coach Griffith. Well, he then proceeded to say that this was not true, at least he did not mean to criticize the University, the athletic program, or Coach Griffith. Well, that is number two. There was a discussion of some relationships with persons in Atlanta, specifically about—

Q. Don’t go into any specific—don’t go into that part of it. Any other area?

A. Well, that’s all that I can recall, without looking at my notes, and if you would like for me to do it, I will.

Q. Did you or not advise him to resign, Doctor?

A. Toward the end of this, then I had already said, “I think you ought to see Bill Hartman about your financial situation.” And he kept referring back to his financial situation in relation to his quitting, and he said, “Now, what about this situation?” And I said, “Well, Coach, I think that the Board is going to take positive action about

this thing, one way or the other. There is so much feeling that our athletic program isn't going, and it is because we [fol. 1115] do not have cooperation and leadership at the head. Whether this is true or not, I don't know, but this is what's being said, and that, as I see it, there are two things that you might do. One is that you might request that the Board give consideration to resigning and retiring at the end of this fiscal year, June 30, but I think the Board is going to take some kind of action, and I don't know what the Board will do with that request." But I assume that Coach Butts thought that maybe that was advisable. At least, then on the 28th, that is what he did, he retired, and—I mean, he asked for retirement, asked to be—resigned on June 30 and retired after that, and gave as the reasons, according to the minutes, his financial—because of the time he was having to devote to outside activities. I think that summarizes it.

\* \* \* \* \*

By Mr. Cody:

Q. Dr. Aderhold, I show you the Defendant's Exhibit No. 21, and ask you whether or not that is a letter directed to you, as President of the University of Georgia, from Dr. Frank Rose, President of the University of Alabama.

A. Yes, sir; it is.

Mr. Cody: That's all.

The Court: Any further questions, Mr. Cody, on behalf of Dr. Aderhold?

[fol. 1116] Mr. Cody: No, sir; I have no further questions.

The Court: All right, sir; go ahead.

Cross examination.

By Mr. Schroder :

Q. Dr. Aderhold, you have testified at some length about meetings that were held in Athens by the Athletic Board.

The Court: By the Executive Committee and the Athletic Boards?

The Witness: Yes, sir.

By Mr. Schroder :

Q. At least two of those meetings had to do with certain matters involving Wallace Butts; is that correct, sir?

A. Yes, sir.

Q. The first of which was January 20th?

A. No; January 5th.

Q. All right, sir. There was a meeting on January 20?

A. Well, that was a conference which Coach Butts requested and he and I met.

Q. When was the meeting held after the conference in Atlanta by Mr.—whatever the gentleman's name was?

[fol. 1117] The Court: Bradshaw.

By Mr. Schroder :

Q. —Bradshaw; was that January the 28th?

A. Yes; that's correct.

Q. Sir?

A. Yes, sir; that's correct.

Q. You had an idea that you were going to discuss something with Coach Butts that had been reported to you by some of the alumni; is that right?

A. Which meeting, Mr.—

Q. The meeting on January the 28th.

A. That was a regular Board meeting on January 28.

Q. You planned to, at that time, to discuss with Coach Butts matter that had been raised by some of the alumni previous to the meeting?

A. Yes. He and I discussed them, and I understand that he and Mr. Barwick and Mr. Bradshaw had discussed them.

Q. I thought you said that Mr. Bradshaw was appointed on a committee to talk to Mr. Butts about it before he had the meeting.

The Court: I think, Mr. Schroder, he said January the 5th, that some committee, the Executive Committee met, and they appointed these two gentlemen to meet with Coach Butts on January 20 and report to a full meeting of the Board on January the 28th.

Mr. Schroder: That is the point I am trying to establish.  
[fol. 1118] The Witness: Your Honor, that—

The Court: That is correct, isn't it?

The Witness: That was prior to the 20th, that is, their meeting was prior to the 20th. The 20th was the date on which Coach Butts and I talked about—

The Court: Oh, yes. You don't know what date they met with Mr. Bradshaw?

The Witness: I don't believe I do.

Mr. Schroder: Well, the point is quite simple, and I think I can get it over.

By Mr. Schroder:

Q. When you had something to discuss with Coach Butts at a meeting, you usually discussed it with him before the meeting, didn't you?

A. Explain the nature. Sometimes I did and sometimes I didn't.

Q. I know one time you didn't. Now, I want to find out about the times you did. During the month of January when you had in mind discussing with Coach Butts some complaints which you said had come from some of the alumni, you let him know that the matter was going to be discussed at the meeting before the meeting, didn't you, January 28?

[fol. 1119] A. On January 28; yes, sir.

Q. You knew—

A. He and I talked.

Q. You knew what you were going to be talking about when you got to the meeting, didn't you?

A. Yes, sir.

Q. Certainly. On February the 22nd, you had a meeting attended by Coach Butts relating to the Butts-Bryant matter, didn't you, in Atlanta, February 22?

A. I think that's correct.

Q. Yes, sir; that's right.

The Witness: I'm sorry, Your Honor.

The Court: That's all right.

The Witness: I just have the copies here.

The Court: That's all right.

By Mr. Schroder:

Q. Are you confirming the date?

A. I am sure the date is right; if you say it is right, I am sure it is.

Q. There is no doubt in your mind about it being the date, is there?

A. Well, let's check it and see.

Q. All right, sir. I really don't—I am not trying to confuse you.

A. Yes, sir. It was Friday morning, February 22nd.

Q. Did you have any committee appointed to inform [fol. 1120] Coach Butts about what was going to be discussed at that meeting?

A. Well, the group meeting the day before consisting of these gentlemen that I named a few minutes ago suggested that—I mean, we all suggested that we should not talk with Coach Butts about this matter, that it had been pursued up to that point and that we needed to discuss it with him. They asked me if I would call Coach Butts when I got home that night and ask him to come to a meeting the next morning in Cook Barwick's office.

Q. Which you did?

A. Yes, sir.

Q. Did you tell Coach Butts at the time you called him what the meeting was about in Atlanta?

A. No, sir.

Q. Why?

A. Well, he didn't ask, and I just told him that we wanted him in Mr. Cook Barwick's office. I didn't ask him to be there. He asked if he could ride over with me, and I said I was going to come in Mr. Bolton's car and I was sure Mr. Bolton would be glad to have both of us come with him.

Q. Which you did?

A. That's right.

Q. The three of you rode over here from Athens on the morning of February the 22nd?

A. Yes, sir.

Q. Coach Butts, you and Mr. Bolton?

A. That's correct.

Q. You and Mr. Bolton knew what that meeting was to be about, didn't you?

A. Yes, sir.

Q. And Mr. Butts was with you all the way from Athens to Atlanta?

[fol. 1121] A. Yes, sir.

Q. Were you all talking?

A. Yes, sir.

Q. Sir?

A. Yes, sir.

Q. Why didn't you tell him then why you were bringing him to Atlanta?

A. Well, all the discussion about this case after the first meeting had been carried on with these people that I named a while ago present, and I didn't—well, my idea was that we talk about it all together at the meeting.

Q. Wouldn't let him know even what you were going to bring him over here and confront him with. That is a true statement, isn't it?

A. Well, it is a true statement that we had—this group had met with and discussed all of the matters as a group, and my feeling was that that ought to be done the same way, though he did not raise a question and I did not volunteer to open.

Q. Insofar as you know—

The Court: Was this February 22nd, the Athletic Board?

The Witness: No; it was not the Board.

Mr. Schroder: Not the Board; it was the committee that met.

The Court: Is that the one that had Mr. Bernie Moore?  
[fol. 1122] Mr. Schroder: That's right.

The Court: Chairman of the Board of Regents?

The Witness: Bernie Moore, Mr. Harman, Mr. James Dunlap, Chancellor Caldwell, Mr. Bolton.

By Mr. Schroder:

Q. You say the same group met every time you discussed it?

A. Well, after the first meeting with Burnett in which Mr. Barwick had a recording of the conference.

Q. Every member of that group met every time when you discussed it?

A. Well, I will have to—I think that's right, but I can check it and see.

Q. How many times did you meet, approximately?

A. Well, met one time with Mr. Burnett. The next time, the addition was Bernie Moore. I think I had better check and get the exact people who were there.

Q. That won't be necessary, sir. My point is, you rode over here with a man who had been connected with the University of Georgia for how many years?

Mr. Cody: Your Honor, he has covered that point, I think he is arguing now, and I move to exclude it.

The Court: I will let him ask him again, did he inform Coach Butts while they were en route or did they wait until they reached Mr. Barwick's office?



[fol. 1123] By Mr. Schroder :

Q. You rode over here in the car with a man that had been head of the athletic department for the University of Georgia for over twenty years, knowing that he was charged with what Burnett had charged him with, didn't you?

A. Yes, sir; to meet with this group.

Q. Yes, sir. So far as you know he didn't know anything about what you all were meeting about, did he?

A. At that time, he didn't; during that discussion he indicated he did know.

Q. And you didn't mention it to him at any time until you got in the meeting; is that right?

A. That's right, until I turned it over to Mr. Barwick for handling.

Q. Up until that time you all had been discussing with him a retirement, hadn't you?

A. Yes, sir. Going back to the 20th, the conference he had with me on the 20th and the subsequent meeting with the Board on the 28th.

Q. That was a month before February 22, at least a month, over a month; during that time you all, the group, had been discussing a retirement under which he would be paid approximately six thousand dollars a year, hadn't you?

A. Well, that figure was named as a possible one—

Q. All right, sir.

A. —but the committee that was asked to look into it was to examine his insurance—I mean, his retirement under the Athletic Board and the retirement under the teacher's retirement, because part of his salary was paid by the University and therefore that part was subject to teacher retirement, and maybe one other item, see what that came to and what would be involved in a retirement [fol. 1124] program that would pay some reasonable amount, and six thousand dollars had been named; yes, sir.

Q. After the Saturday Evening Post story, that was no longer discussed, was it?

A. It has not been discussed directly, though Coach Butts and I discussed it briefly on the date that this letter was written.

Q. The date that Dr. Rose's letter was written?

A. No; I'm sorry, the one that—

Q. The February 23rd letter?

A. Yes; the one that Coach Butts wrote. At that time—excuse me.

Q. All right. Let's pass on to February the 23rd for a minute. Coach Butts came to your office on February 23rd about noon, didn't he?

A. Well, around 12:00 or 12:30, somewhere along in there.

Q. And he told you that he had heard that there was going to be an article published in that day's paper stating that he was going to resign or that he had resigned?

A. Well, I think I can recall fairly accurately what was said. He indicated that, I believe, Mr. Bisher or some sports editor had—some sports writer had called him either the night before or early that morning saying that such an announcement would be made and that he wanted me to know that he did not authorize that.

Q. And he came to you and he told you, rather than have that come out, without you knowing anything about it, that he had not authorized it, in order not to embarrass you and not to embarrass the University of Georgia he would tender his resignation?

[fol. 1125] A. Well, he didn't give those reasons, but—but he did—

Q. Let's move on to Sunday.

The Court: Go ahead and let him finish. Did you finish your answer?

The Witness: Well, I think the statement of fact is what he said when he came in, and later he did say that he was going to resign. There was no relation, as I remember, in the discussion with the two things.

By Mr. Schroder:

Q. You didn't ask him for his resignation, did you?

A. No, sir.

Q. No one that you know of asked him for his resignation after the February 22 meeting, did they?

A. Not that I know of; no, sir.

Q. As a matter of fact, you were in Birmingham on January the 24th, weren't you—excuse me, February the 24th?

A. Yes, sir; I went to Birmingham the evening of the 23rd, and I was there on the 24th.

Q. And you met with Dr. Rose, didn't you?

A. Yes, sir.

Q. And you told Dr. Rose what had been reported to you by one George Burnett, didn't you?

A. Yes. I think we shared with Dr. Rose all of the information which the committee had, and we shared it not only with Dr. Rose but the group asked Bernie Moore if he would also meet with us, and the meeting was held in his office, so the four of us were there at that time.

[fol. 1126] Q. You speak of all of the information you had, all the information you had was from Burnett, was it not, insofar as it related to this telephone call? Did you have any information from anyone else that was listening?

A. No, sir.

Q. It was all Burnett, wasn't it?

A. It was the Burnett report that we had; that's correct.

Q. All right, sir. And you talked to Dr. Rose in Bernie Moore's office in Birmingham, didn't you?

A. Yes, sir.

Q. Bernie Moore, as a matter of fact, had suggested that that meeting be held in Birmingham in his office and that it be confidential, didn't he?

A. Who did?

Q. Bernie Moore.

A. Bernie Moore? No, sir. I called Dr. Rose while the committee—while this group was up there, and asked him

if he would meet us in Bernie Moore's office. Bernie was in the meeting and agreed that we could meet in his office, and he would meet us.

Q. There was no mention of it being a confidential meeting?

A. Well, I don't recall that there was any mention of it, but—

Q. It was your understanding—

A. I am certain that my concept was that it was to be a confidential meeting at that time.

Q. At which time, insofar as you knew, Dr. Rose would be acquainted for the first time with Burnett's story?

A. As far as I know that is true.

Q. That was the reason for going over there—for having the meeting, wasn't it?

[fol. 1127] A. Yes.

Q. And when the meeting got under way, it was disclosed it really hadn't been confidential as you and the others had expected it to be, wasn't it?

A. Well, I don't know what you mean. If you will elaborate a little I will react to it.

Q. When you walked in and sat down at the meeting, Mr. Moore seemed quite upset because he had been called by a sports writer wanting to know what you all were meeting about, didn't he?

A. Well, during the meeting—I don't recall toward the first; toward the end of the meeting, but I wouldn't be positive about that.

The Court: Who was the fourth man? It was you and Dr. Rose, and—

Mr. Schroder: Bernie Moore.

The Court: Who was the fourth man?

The Witness: Cook Barwick.

The Court: Oh, yes. Thank you.