

By Mr. Schroder:

Q. And the man who called Bernie Moore to find out what you were supposed to be meeting about was, again, Mr. Furman Bisher, was it not?

A. May I refer to the notes?

[fol. 1128] Q. Surely.

A. I know, in general, I think, what he reported. I'm sorry; I can't put my hand on it right now, but I think we can nail the dates—

Q. Sir?

A. As I recall it, there were two questions, and I wouldn't say one of these preceded the other at the moment. Dr. Rose, I think, asked if we had heard anything—

Q. I am speaking now about Furman Bisher, not what Dr. Rose said he heard.

Mr. Cody: Let him finish.

Mr. Schroder: I want an answer that is responsive.

The Court: I don't know whether he can respond to it or not.

By Mr. Schroder:

Q. Let me ask him simply, did Dr.—did Bernie Moore say anything about having received a call from Furman Bisher to inquire why the three or four of you all were meeting?

A. Yes, sir. He reported that Furman Bisher called him, I believe, the night before—

Q. All right, sir.

A. —either prior to that or after it, and I wouldn't say which. Dr. Rose asked—do you want to know—

Q. I just wanted to know if it had not been your understanding that it was to be a confidential meeting, and was it not so that a newspaper sports writer did call wanting [fol. 1129] to know why the meeting was being held?

A. No; it wasn't what he—what I remember that he reported. He said that Furman Bisher had called him, and I believe he said the night before—

Q. All right, sir.

A. —and asked some questions that, I think he said, led him to believe that he knew that we were meeting over there.

Q. All right, sir.

A. Now, that is the substance of it.

Q. You went on and had your meeting, and Coach Bryant was apprised of what you had received from George Price Burnett, Jr.?

A. No, sir.

Q. He wasn't?

A. I never did talk to Coach Bryant.

Q. I'm sorry. I made the mistake. The man that was there representing the University of Alabama?

A. Dr. Rose; yes.

Q. And Dr. Rose was told, or he said, well, he was going to look into it himself, didn't he?

A. Yes; he expressed concern, and said that he'd go back and get right on it, that he had to be in Washington, I believe, the first part of the week. He and I both were supposed to attend a meeting in Chicago the latter part of the week, but he said, "I will get somebody started right into it." And I think he mentioned—I know he mentioned two people, one is a fellow, I think he said, Mr. Coleman and Mr. Bennett, "I will get them started on it right away," or something to that effect, "and I will let you know what we find out."

Q. You didn't hear from him again—as you say, he was traveling—until you received the letter which Mr. [fol. 1130] Cody—which you just produced and handed to Mr. Cody?

A. On March 6th; that's correct.

Q. That was the date of the letter?

A. It was dated then. I think I received it about the 8th.

Q. He was, in that letter, reporting on what he had turned up, I mean, reporting on the result of the investigation, sir?

A. Yes, sir.

Q. Did you ever answer the letter?

A. No, sir.

Q. Sir?

A. No, sir.

Q. Why?

A. Well, he said on nearer the end of it that if he found any more information that he would let us know, and our group had agreed to turn over what information we had to the Southeastern Conference, to the NCAA, and to the President of the University of Alabama. We had felt that we had pursued the matter as far as we could.

Q. Well, he told you, did he not, that he found nothing to substantiate what you had told him in Birmingham?

A. Who? President Rose?

Q. President Rose; yes, sir.

A. Well, that is not what is in the letter to me.

Q. You talked to him, though?

A. No; I have not talked with him except the day that this letter was subpoenaed and released.

Q. And he called you on that date?

A. He called me on the phone to ask me if the letter had been released or subpoenaed and released, and I told him, yes, that it had been subpoenaed. I didn't know that it [fol. 1131] had been released, and he said, "Well, it has been." I mean, I didn't know it until really just before I talked to him, because some person from AP or UPI had called from Atlanta and asked one question, "Did you get a letter from President Rose dated the 6th of March?" And he said, "I have seen a copy of the letter." I said, "If you have seen a copy of the letter and it is addressed to me, you can assume I received it."

Q. Yes, sir. But I want to get back—

A. And then—

Q. —to this telephone conversation.

A. Yes, sir. Immediately, then, as I hung up the telephone I had a call from Dr. Rose in Tuscaloosa, and he asked if the letter had been released, and I told him just about what I have said here, and he said, Well, the New York office of the AP had just—had called him and told him about the letter, and that he had made the following comments, none of which I took down, but he said he gave it to AP, and I read it in the story the next day, and it essentially was what he had told me over the telephone.

Q. All right, sir. Now, Dr. Rose told you when he called you on the telephone some two weeks after he had written you that the letter which he had written had been written hurriedly, that it was an attempt by one college president to pass along to another college president information relating to a game which he knew nothing about, and he assumed that you weren't aware or acquainted with the terminology, meaning football?

A. You mean, did he say all that to me?

Q. In essence, isn't that what he told you?

A. I think what he said to me is in the AP report and [fol. 1132] story. I read it the next day, and it was about just what he said.

Q. All right. You tell me what you remember him telling you on the telephone.

A. Well, it was to the effect that he had hurriedly written the letter, that he didn't know much about football, technical football, and that he had talked to Mr. Bryant, I believe he said, two or three times about it, and really that is about what he said on the phone.

Q. And didn't he also, in that conversation with you, tell you that Coach Bryant had told him, when he first approached the matter with Coach Bryant, that Coach Bryant had said that he talked with Wally Butts many times on many topics, including the new enforcement policy regarding defensive tactics in football?

A. He said that in the letter.

Q. Yes, sir; I know it. But didn't he also in the telephone conversation with you, tell you that the reason the University of Alabama, including the Coach and the President, were so concerned about the new enforcement policy was that they wanted to make certain no incident ever happened again to the University of Alabama such as that which happened in the previous football season commonly known as the Darwin Holt-"Chic" Granning incident?

A. I don't believe he said that to me.

Q. In effect, they were very much concerned about the boys playing—not doing anything that might create another incident like that?

A. He said that, I think, in the meeting in Birmingham when we were talking, but I don't recall that he said that at all on the telephone.

[fol. 1133] Q. He told you how that incident alone had harmed the University of Alabama through the press?

A. He didn't comment on it at all, just referred to it.

Q. He told you at that time he didn't want any such incident to occur, particularly between the University of Georgia and the University of Alabama?

A. No, sir.

Q. He didn't talk about the fact that Georgia Tech and Alabama had agreed to sever relations sometime in the future, and he did not want that to arise between the University of Georgia and Alabama?

A. No, sir; I don't recall him saying anything about that.

Q. You remember him talking about the new enforcement procedures that Coach Bryant and he were discussing the night he went back to confront Coach Bryant?

A. In the letter?

Q. Yes, sir. You remember also, do you not, when he talked to you on the telephone, that being a college professor and unfamiliar with football terminology, that he meant, when he was writing to you, to tell you or to acquaint you with the fact that it was those defense tech-

niques that he was concerned with, and that is why Coach Bryant and Coach Butts had these conversations, and that if he used "plays" in his letter, it was just one college professor's way of saying "techniques"?

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By Mr. Schroder:

Q. Now, he told you that on the telephone, didn't he?
[fol. 1134] A. He told me that he mean't "techniques". The rest of it I don't recall much about, except what the AP reported the next day was essentially what he had told me on the phone.

Q. All right, sir. He pointed out to you where he had used the word "plays". He didn't understand it; it was a defensive technique he was trying to describe to you in his letter, and he told you what plays were used, I mean, techniques?

The Court: Haven't you been over that once?

Mr. Schroder: I don't know, sir. I don't want there to be any doubt.

The Witness: There are other—

The Court: I don't think we can keep repeating it.

The Witness: He referred to it in other parts of the letter.

By Mr. Schroder:

Q. During that conversation he also asked, didn't he, why you hadn't answered his letter?

A. No, sir.

Q. Did he mention anything about you answering his letter?

A. No, sir; he did not.

Q. All right, sir. You are positive?

A. Yes.

Q. Sir?

[fol. 1135] A. Yes. I don't think he has ever asked me why I didn't answer his letter.

Q. All right. You have already said, I believe, he asked you, did you release the letter?

A. He asked me, "Was the letter released?" And I said, "It was subpoenaed; I did not release it to anybody."

Q. He told you he considered that to be a confidential communication because it had been so marked, didn't he?

A. He did not say that.

Q. What did he say about it being confidential?

A. He said, "This letter which I wrote you, has it been released?" And I said, "It's been subpoenaed, and I just learned from a telephone conversation a minute ago that it apparently has been released."

Q. Did he say anything—it is marked "Confidential", isn't it?

A. Yes, sir.

Q. Did he say anything to you—did he use that word in the telephone conversation?

A. Well, I don't remember that he did.

Q. Did he also tell you that he felt that you owed him the courtesy of letting him know that it had been subpoenaed?

A. No, sir.

Q. He didn't discuss that with you?

A. No, sir.

Q. You are sure?

A. I am.

Q. Sir?

A. Yes, sir; I am.

Q. Is there any question in your mind, or has there ever been any question in your mind when Dr. Rose told you that the unfortunate use of the word "plays" instead of [fol. 1136] "techniques", has there never been any question in your mind that he meant it?

The Court: How many more times are we going to go over "plays" and "techniques"? You don't have to answer that, Dr. Aderhold.

Mr. Schroder: I want to know if there is any doubt about him having meant it.

The Court: I think he has answered it three times, Mr. Schroder.

Mr. Schroder: I have not asked for his reaction, Your Honor.

The Court: I think you have asked him the question three times.

Mr. Schroder: May I—I will cut it out if I can ask him this one more question.

The Court: No, sir; you have asked him that three times—the same question.

Mr. Schroder: No. I asked him—I am asking him now, is there any doubt in his mind about President Rose meaning what he said.

[fol.1137] The Court: I told you, you have asked the question three times.

Mr. Schroder: I have asked that?

The Court: Yes, sir.

Mr. Cody: I don't see how any witness, Your Honor, could testify with any accuracy about somebody's mental reaction.

The Court: I have already ruled on it. Let him proceed.

The Marshal: Let's have order, please.

By Mr. Schroder:

Q. I believe you testified on direct examination that you would see Coach Butts maybe two, three or four times a year?

A. Oh, I saw him, of course, many more times than that.

Q. I don't mean on the street; I mean in connection with his position there as athletic director.

A. Well, I haven't kept any record, but I would guess that is within the range of our meetings.

Q. In the meeting of February 22nd, when you finally acquainted Coach Butts with what he was over there for, did you say that the notes were handed to him and he riffled through them, or what did you say?

[fol.1138] A. I didn't say "riffled through them."

Q. I didn't mean to put that in your mind—in your mouth. Just tell me what he did do. Did he have his glasses on?

A. They were handed to him. He said he didn't have his glasses, I believe, and somebody—I don't remember whether it was Mr. Barwick or Mr. Bolton—said, "Try mine," and handed them to him, and he said, "Yes; I can see."

Q. All right, sir. How long did he spend with the notes?

A. Well, I don't recall it consumed very many minutes; just briefly looked through them.

Q. Just what, sir?

A. I don't recall it—

Q. I didn't hear the last thing you said.

A. —consumed very many minutes.

Q. You said it didn't consume very many minutes; you'd say briefly?

A. I would say briefly, a few minutes; I don't know whether three or five.

Q. And I don't believe you said that any particular item in those notes was discussed by him when he was going through them?

A. What do you mean by "specific items" now?

Q. Well, to me that would mean there were several entries in the notes, and were they gone over one by one, entry by entry, or was any particular entry discussed?

A. I don't believe so.

Q. All right, sir.

A. I think he—I think he generalized about them rather than any specific one.

Q. And he then proceeded, I think you testified on direct [fol. 1139] examination he then proceeded to discuss football in general at the meeting, including you?

A. What do you mean "including me"?

Q. I mean, including you as a group, he was discussing football there for about an hour, I think you said?

A. Well, I wouldn't put an hour on it, but approximately that; yes.

Q. All right, sir. And he took the position, as you said, that the information that was contained in these Burnett notes were not in the category that they would have helped anyone getting ready for a game with the University of Georgia?

A. Well, I don't believe he was asked that question.

Q. Let me put it this way. You did testify he told you and the others he would never do anything that would hurt the University of Georgia, didn't he?

A. He said, "I didn't do anything that I thought would hurt the University of Georgia and I never would," or something to that effect.

Q. All right, sir. These notes that he had there in his hand, if they contained information that might have helped an opposing coach, that would have hurt the University of Georgia, wouldn't it?

A. Well, presumably so.

Q. You don't know what is in those notes insofar as football knowledge is concerned, do you?

A. No; I do not.

Q. You don't know whether there was anything in those notes that would be helpful or harmless, do you?

A. This is certainly not an expert's reaction, but there were names called, and whether or not that is helpful and how they react, or not, I have an idea that maybe if [fol. 1140] you knew a good deal about the reaction that it would be helpful.

Q. Did you ever discuss these notes yourself with anyone that was familiar with football jargon?

A. I saw a run of the film—

Q. Yes, sir.

A. —with the notes.

Q. Yes, sir. Did you discuss the notes with someone when the film was being run?

A. Yes. I mean, the notes were discussed.

Q. Yes, sir.

A. I listened.

Q. The film was being run by Johnny Griffith, wasn't it?

A. Yes, sir.

* * * * *

By Mr. Schroder:

Q. Did Coach Griffith tell you, in effect, that the only thing that he saw in those notes that would be of help would be knowing two formations?

Q. Did he at that time point out to you—

A. I think he indicated that he thought they would be of help.

Q. All right, sir.

A. But I don't think he mentioned specific formations.

Q. Did he, at the time that he was showing the film to you, point out that the first four times that the University of Georgia football team used one of these formations that it caught Alabama by surprise and the plays run from those formations were successful?

[fol. 1141] A. I don't think there is any—

The Court: I don't remember Coach Griffith testifying to that. Several others testified to that.

Mr. Schroder: Mr. Pearce did.

Mr. Cody: He didn't testify to that.

The Court: No.

Mr. Joiner: No.

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DR. HUGH MILLS, called as a witness on behalf of the Defendant, after having been first duly sworn, testified as follows:

By Mr. Cody:

Q. Your name is Dr. Hugo Mills?

A. Yes, sir.

Q. Where do you live, Dr. Mills?

A. In Athens, Georgia, 3280 Jefferson Road.

Q. How long have you lived there?

A. I have lived at this address about three years now.

Q. How long have you lived in Athens?

A. At this present time since 1954, I believe.

[fol. 1142] Q. Are you connected in any way with the University of Georgia?

A. Yes; I am an associate professor in the Education School.

Q. How long have you been a professor?

A. I first joined the staff in 1948, I believe, and then I had a three-year term back out in public school and back the next time I believe in 1954, so I have actually had two tenures with the University. I have been there since 1954 constantly.

Q. Are you a member of the University of Georgia Athletic Board?

A. Yes, sir.

Q. How long have you occupied that position?

A. I am in my second term. The term is for one year, so it would be about a year and a half, I guess, now.

Q. In your work at the University, have you—have you had occasion to know Wallace Butts?

A. Yes, sir.

Q. Please state to the Court, Dr. Mills, whether or not you know the general character in the community of Wallace Butts?

A. Yes, sir; I think I know the general character of Wallace Butts.

Q. From that knowledge will you state to the Court whether or not that is good or bad?

A. Given those choices, from my knowledge I would now have to say "bad".

Q. From your knowledge of that character can you state to the Court whether or not you would believe Wallace Butts on oath?

A. I would not any longer.

[fol. 1143] Mr. Cody: I believe that's all.

The Court: Mr. Schroder—

Mr. Schroder: Yes, Your Honor.

The Court: —Do you have any questions?

Cross examination.

By Mr. Schroder:

Q. Dr. Mills, after the January 28th meeting of the Board—you attended that meeting, didn't you?

A. Yes, sir.

Q. And after the meeting you talked with Wallace Butts, didn't you?

A. Yes, sir.

Q. And in that conversation you told him what a wonderful job you thought he had done there at the University, didn't you?

A. Yes, sir.

Mr. Cody: Speak so I can hear you, Schroder; I can't hear you.

The Witness: And will be happy to explain that statement.

By Mr. Schroder:

Q. Well, you made the statement to him?

[fol. 1144] A. Yes; I did.

Q. All right, sir. Do you know Bill Hartman?

A. Yes, sir.

Mr. Cody: I think he ought to be permitted to explain his statement, Your Honor. I think you permitted Mr. Schroder's witnesses to do that, and if he wants to make an explanation I think he ought to be permitted to do it.

Mr. Schroder: I understand Mr. Cody is not through, yet, with the witness.

The Court: Sir?

Mr. Schroder: I didn't understand Mr. Cody was through with the witness.

The Court: Mr. Schroder, I think he can explain his answer.

Mr. Schroder: It is all right with me.

The Court: You can explain it, sir.

The Witness: As well as I remember in these circumstances we were viewing the maps of the proposed recreation experiment stations in North Georgia where we were [fol. 1145] in Mr. Masters' office at the Continuing Education Center, and I told Coach, because I felt that things had gone very badly for him, not in the meeting but of late, that all in all I felt he had had a very good influence over the years, which was my way of saying, in fact, that, "I am very sorry and I hope things do better for you now, and I certainly did mean that, of course."

By Mr. Schroder:

Q. In 1959 Wallace Butts was elected the number two football coach in the United States, wasn't he?

A. I'm sorry, but I don't recall.

Q. You say you do know Bill Hartman?

A. Yes, sir.

Q. He is a man of honor?

A. In my estimation, yes, sir.

Q. You would believe him, wouldn't you?

A. I would.

Q. Do you know Ray Clark, the captain of the Georgia 1962 football team?

A. Yes, sir.

Mr. Cody: Your Honor, I think it is the character of the Plaintiff in this case, not that of—not that of other parties.

Mr. Schroder: These people have testified—

The Court: I think, Mr. Cody, if I remember the rule correctly, I don't know that Mr. Schroder is properly putting the questions, but I am sure he can, I think he can [fol. 1146] ask him to say he knows So-and-So. I think he can bolster the evidence of Mr. Hartman or Mr. Clark, or anyone else.

Mr. Cody: Very well; very well.

The Court: It is a proper rule. I don't know that you propounded your question like the Code Section, but you can ask him does he know the reputation of Mr. Hartman.

Mr. Schroder: All right, sir.

By Mr. Schroder:

Q. And Mr. Ray Clark?

Mr. Cody: I do want to make this point for the record, Your Honor.

The Court: All right, sir.

Mr. Cody: Until the character of a witness is in issue, I think the Courts have held that evidence as to character is inadmissible.

The Court: All right, sir; have you got the law on that? Let the Jury go to the jury room. Let's see the law on that.

[fol. 1147] (Whereupon the Jury retired from the courtroom at 10:12 A. M.)

Mr. Cody: 16 Georgia Appeals, Your Honor.

The Court: Let me get 16 Georgia Appeals. Will you state what that case holds, and by that time I will have the volume.

Mr. Cody: It is my understanding that it was held in that case that the credibility of a witness—it is my understanding that the witness can not be impeached on evidence introduced as to his character unless there's been some attack on it.

The Court: Well, I don't know whether you would call an attack—one way to impeach a witness would be contradictory testimony.

Mr. Cody: Yes, sir.

The Court: And some of the witnesses would be questioned about, Mr. Clark and Mr. Hartman, there's been contradictory testimony in regard to whether or not plays set out in those notes would have or would not have been beneficial.

Mr. Cody: Yes.

[fol. 1148] The Court: That is one way of contradicting it, I mean, impeaching is by contradicting statements.

Mr. Cody: Let me take a look at one Code section we had in mind.

The Court: You are referring, I believe, to 38-108?

Mr. Cody: I think it is.

The Court: Yes, sir. This testimony went in yesterday, Mr. Cody, without objection on your part. I remember he asked Mr. Bradshaw in regard to Charlie Trippi; I believe I am right on that.

Mr. Schroder: That's correct.

The Court: What is your citation?

Mr. Cody: It is 1803.

The Court: Sir?

Mr. Cody: Code section 1803.

[fol. 1149] The Court: What is your citation in 16 Georgia Appeals? I have it here now.

Mr. Cody: Page 832, headnote one. I think Section 1804 touches on this subject too.

The Court: Have you got any Code section?

Mr. Cody: Yes, sir.

The Court: As I understand the Code section, Mr. Cody, —I am reading from the Code section, a witness may be impeached by evidence as to his general bad character. The impeaching witness should be first asked as to his knowledge of the general character of the witness, and next as to what that character is, and lastly he may ask from that character if he would believe him on his oath. The witness may be sustained by similar proof of character. And that is just what—

Mr. Cody: That is the witness on the stand. A witness—

The Court: No, sir; you wouldn't sustain a witness by his own testimony. You would sustain it by someone else, and he is sustaining Mr. Hartman's and Mr. Clark's, I believe, by this witness.

[fol. 1150] Mr. Cody: Only, I understand, when his character has been attacked. You can not offer evidence—

The Court: I don't know that you have attacked his character, but you have in a roundabout way, I assume it is your contention, that this evidence showed that these notes

were of benefit, and these two witnesses testified—I don't remember about Mr. Clark, but I remember Mr. Hartman stated that in his opinion and Mr. Trippi, that they didn't affect the outcome.

Mr. Cody: I understand Your Honor's ruling.

The Court: Yes. I will let him answer. Is there anything else while the Jury is out?

Mr. Schroder: No, Your Honor.

Mr. Cody: No, sir.

The Court: All right, let them be brought back in.

(Whereupon the Jury returned to the courtroom at 10:18 A. M.)

The Court: All right, Mr. Schroder.

[fol. 1151] By Mr. Schroder:

Q. Dr. Mills, you stated that you do know Mr. Ray Clark?

A. Yes, sir.

Q. You are familiar with his reputation in the community?

A. I am not real familiar with his reputation in the community. I do know him and have a high regard for the boy; yes, sir.

Q. Do you know Mickey Babb?

A. Yes, sir.

Q. Do you know his reputation in the community?

A. Yes, sir.

Q. Would you believe him under oath?

A. I would.

Q. Do you know Wally Williamson?

A. Yes, sir.

Q. Do you know his reputation in the community?

A. Yes, sir.

Q. Is it good or bad?

A. Good.

Q. Would you believe him under oath?

A. I would.

Q. Do you know Mr. Charlie Trippi?

A. Yes, sir.

Q. Do you know his reputation in the community?

A. Yes, sir.

Q. Is it good or bad?

A. Good.

Q. You would believe him under oath, wouldn't you?

A. I would.

Q. Did I ask you about Mr. Brigham Woodward?

A. No, sir; I don't believe you did.

[fol. 1152] Q. Do you know his reputation?

A. I do not know it as well as the others. I have talked to the others personally on occasion. I don't believe I have ever talked to Mr. Woodward personally, but I do know who he is, and I know him as one of our students.

Q. You know his reputation?

A. To that extent, yes.

Q. Is it good or bad?

A. Good.

Q. You would believe him under oath, wouldn't you?

A. I would.

* * * * *

J. D. BOLTON, having resumed the stand, testified further as follows:

Redirect examination.

By Mr. Cody:

Q. Mr. Bolton, you heretofore have been sworn as a witness?

A. Yes; I have.

Mr. Cody: This is Mr. J. D. Bolton.

By Mr. Cody:

Q. Mr. Bolton, will you tell the Court once again how long you have been connected with the University.

A. Since July 1st, 1933.

[fol. 1153] Q. And you presently occupy what position?

A. Comptroller and Treasurer of the University of Georgia, and also Treasurer of University of Georgia Athletic Association.

Q. In that capacity have you had much contact with Wallace Butts during the period that he has been at the University?

A. Yes, sir.

Q. Has that been fairly constant?

A. Yes, sir.

Q. Does your duties as Treasurer of the Athletic Association cause you to have business dealings with him?

A. Yes, sir.

Q. Will you please state to the Court whether or not you know—you are acquainted with the general character of Wallace Butts in the community?

A. Yes, sir; I believe I am.

Q. From that knowledge will you state to the Court whether or not that is good or bad?

A. I would have to say it is bad.

Q. From that knowledge of his character, would you believe him on his oath?

A. No, sir; I would not.

Q. Mr. Bolton, have you ever talked with Wallace Butts or been at any meetings where Coach Bryant was discussed, or whether he mentioned Coach Bryant's name?

A. This meeting in Cook Barwick's office on February 22nd, I believe it was.

Q. By what name did he refer—did he refer to Coach Bryant at that time.

A. This is February 22nd, 1963. At that time, to the best of my recollection, he referred to him as "Old Bear" in that one instance.

[fol. 1154] Q. Do you remember at that meeting whether or not Wallace Butts had his glasses with him?

A. Yes, sir; I can remember very distinctly.

Q. Did he have them or did he not?

A. Evidently he did not have them, because I gave him my glasses to examine the notes with.

Q. Did he have anything to say as to whether or not he could see with your glasses?

A. Yes, sir; he said, "I can see out of these things."

Q. Did he examine the notes in your presence?

A. Yes, sir.

Q. Mr. Bolton, were you—prior to the Bryant affair, were you on a committee appointed by Dr. Aderhold to look into any matters concerning Wallace Butts?

A. Yes, sir.

Q. Do you know when you were appointed on that committee?

Would your notes refresh your recollection?

A. I think it was January the 5th.

Q. Of 1963?

A. 1963.

Q. What is that you are looking at?

A. Looking at the minutes of the Athletic Association.

Q. Go ahead.

A. Minutes of the Board meetings and Executive Committee meetings.

The Court: You the secretary?

The Witness: No, sir. I have sometimes acted as secretary when others were not there.

[fol. 1155] By Mr. Cody:

Q. Will you state to the Court the assignment that was given that committee?

A. The committee was instructed, and, as well as I remember, the committee was composed of Mr. Heckman and Mr. Bishop Grant and I, to study expense accounts and personal telephone accounts of Coach Butts.

Q. Well, how did the University come into that—

Mr. Lockerman: Your Honor, I don't see the relevancy of this at all, and I think the Jury should be instructed to disregard it.

The Court: Let's don't go into that. I will let you ask him in regard to the termination, what that committee—I

presume you are going up to the question of the appointment of Mr. Barwick to investigate it?

Mr. Cody: That is another committee.

The Court: Sir?

Mr. Cody: That is another committee.

The Court: Well, I will rule this evidence out.

Mr. Cody: Yes, sir.

[fol. 1156] Mr. Lockerman: Will you instruct the Jury?

The Court: Members of the Jury, I will instruct you to disregard any statement in regard to the committee looking into any telephone calls that might have been charged to the University. That is not relevant in this matter, and you should disregard it.

Mr. Cody: I believe that's all.

Recross examination.

By Mr. Schroder:

Q. You referred a moment ago to a notebook that you had there covering the meeting in Mr. Barwick's office. Could I see it please, sir?

A. My notebook?

Q. Yes, sir.

The Court: I don't believe he—his testimony wasn't that he had evidence of minutes of the meeting in Mr. Barwick's office.

Mr. Schroder: No; when he was testifying, refreshing his recollection.

The Witness: Do I have to give him my personal notebook?

[fol. 1157] Mr. Schroder: You mentioned something—I don't want to look at your personal notebook.

The Court: He thought maybe you had some notes. Do you have any notes that were made in regard to that meeting that are separate? He would be permitted to have them. But if it is your personal notes—

Mr. Schroder: Could I sort of stand behind him and let him show me what entries he had?

The Court: Let him read them out to you and then point them out.

The Witness: Which date, February 22?

Mr. Schroder: Yes, sir.

The Witness: 10:00 A.M., Cook Barwick, Caldwell, Dunlap, Moore, Hartman, Butts, and, of course, Dr. Aderhold and I were there too.

By Mr. Schroder:

Q. Is that all the notes you have relative to that meeting?

A. Yes, sir.

Q. Well, when you were asked a minute ago about what Coach Butts had to say when he was referring to Coach [fol. 1158] Bryant, you looked at your notebook and said, "Old Bear". You don't have that in there, do you?

A. No; I looked for the date in the notebook.

Q. Oh, looking at the date refreshed your recollection?

A. Yes, sir.

Q. You been at Athens, you say, since 1933 at the University?

A. Yes, sir.

Q. You were there when I went through the Law School?

A. Yes, sir; I remember you well.

Q. You have been there long enough, have you not, to form an opinion as to the general character and reputation of William Hartman in that community?

A. I think so.

Q. In your opinion, is it good or is it bad?

A. I would say it is good.

Q. Would you believe him under oath?

A. I have never had occasion not to.

Q. Is your answer "yes"?

A. I believe I would.

Q. Your answer is "yes"?

A. Yes.

Q. Do you know Coach Charles Trippi?

A. Yes, sir.

Q. He lives in Athens?

A. Yes, sir.

Q. Are you familiar with his character and reputation in the community where he lives?

A. Not as well as I am with Coach Hartman. I have never been thrown closely with Coach Trippi.

Q. No; I didn't mean your personal association with him, [fol. 1159] but what is his general reputation in the community in which he lives?

A. As far as I know it would be good.

Q. And you would believe him under oath?

A. Yes, sir; I would.

Q. Do you know Ray Clark, Captain of the University of Georgia football team?

A. I would know him if I were to see him.

Q. Sir?

A. I would only know him if I were to see him.

Q. Are you familiar with his reputation in the community?

A. No, sir; I would not be.

Q. Sir?

A. I would not be.

Q. And he is the Captain of the team?

A. I think he was.

Q. In '62?

A. Yes, sir.

Q. But the last time we put a team on the field he was the Captain of it, wasn't he?

A. I think that's right.

Q. Do you know Mickey Babb?

A. I think I'd know him if I were to see him.

Q. Do you know his reputation?

A. No, sir.

Q. Do you know Wally Williamson?

A. I'd know him if I were to see him.

Q. Do you know his reputation in the community?

A. No, sir.

Q. Do you know Brigham Woodward?

A. Same answer. I'd know him when I'd see him.

Q. But you don't know anything about his reputation?
[fol. 1160] A. No, sir.

Q. Do you know John Gregory?

A. Yes, sir.

Q. You know his reputation in the community?

A. Yes, sir.

Q. Is it good or bad?

A. I think it is good.

Q. Would you believe him under oath?

A. I don't believe I could answer that question.

Q. Why not?

A. May I explain?

Q. Yes, sir.

A. I think the answer would have been yes immediately, but if the newspapers have reported him right, I could not answer the question you asked without studying it further, and I haven't seen the evidence myself.

Mr. Schroder: All right, sir. That's all—

By Mr. Schroder:

Q. Going back to the topic I was questioning you about at the beginning of this examination, I have in my hand a transcript prepared by the Court Reporter here of your testimony when you were on the stand last week. This question—I ask you if you remember this question being asked you by Mr. Cody: “Could you recall for the Jury what comments he did make,” referring to Wallace Butts? Answer by Mr. Bolton: It got down—“It's just conversation, ordinary football talk among coaches, and that you know I would not give Old Bryant anything to help him and hurt Georgia, and I wouldn't do anything to hurt Georgia.” Do you remember giving that answer?

[fol. 1161] A. No, sir; I remember saying “Old Bear”.

Q. Last week?

A. Yes, sir.

Q. Since you were last on the stand, has Mr. Cody or anyone from this office discussed the testimony in this case with you since then?

A. Yes, sir.

Mr. Schroder: All right, sir, come down.

Examination.

By the Court:

Q. Mr. Bolton, let me ask this question. I believe there are about, what, thirteen or nineteen members on the Athletic Board?

A. Eighteen, I believe.

Q. Eighteen, and two of those, I believe, are appointed by the Alumni Association, which is a separate—I believe the Alumni Association is a separate corporate entity, is it not?

A. That's correct.

Q. Is the Athletic Association a corporation, do you know?

A. Yes; it is a corporation.

Q. It is a corporation?

A. Yes, sir.

Q. What—the charter of the corporation, what is the provision as to the election of members to the Athletic Board?

A. If I remember correctly, Your Honor, I think the President appoints the faculty members or suggests to the committee who appoints the faculty members, and then [fol. 1162] the Board elects the non-faculty members every year; they are re-elected.

Q. You mean the non-faculty members of the Board—

A. Yes, sir.

Q. —are elected by the faculty members of the Board; is that correct?

A. I think that's right.

Q. Except for the two alumni?

A. I think except for the alumni, and you see—let's see, fifteen, there are eight faculty members and seven non-faculty members, and I think under the—

Q. The Southeastern Conference requires that the majority members of the Board be faculty members?

A. That's correct, sir.

Q. But under the charter the faculty members elect the non-faculty members; is that right?

A. I can tell you how it is handled. We have a nominating committee that is usually made up of a majority of the non-faculty members, and there will be a faculty member on there, but the majority is made up of non-faculty.

Q. Non-faculty?

A. To nominate non-faculty members each year at the Board meeting.

Q. Does this Board decide what the compensation the Director of Athletics and coaches and all assistant coaches should be?

A. Yes, sir.

Q. What was the compensation—what is the compensation of the Director of Athletics?

A. At the time Coach Butts was made Director, I believe it was twelve thousand.

Q. What is the compensation of the head coach at Georgia?

[fol. 1163] A. I believe Coach Griffith's was set at fifteen thousand. At the time of Coach Butts, I believe, if my memory serves me correctly, it was eighteen-five. That included some—not only salary but subsistence allowance.

Q. And you are a separate corporation, the Athletic Association?

A. Yes, sir.

Q. I presume that all your accounts and so forth are not only audited by the University but audited by the State of Georgia too?

A. No, sir; they used to be, but since 19—I can't remember the exact date, but 1948 or '49, although the Athletic Association was incorporated, there was a State Act of

the Legislature declaring the University of Georgia Athletic Association and the Georgia Tech Athletic Association as separate corporations, and—which did not come under the State. Therefore, the State auditor has not audited since that date.

The Court: I believe that's all.

Redirect examination.

By Mr. Cody:

Q. Mr. Bolton, when the question arose as to what your testimony was last week as to what name Coach Butts used when he referred to Coach Bryant, did the Court Reporter call you?

A. No, sir.

Q. It is your testimony that in that meeting he referred to Coach Bryant as "Old Bear"?

A. That is my understanding; that is my memory of it.
[fol. 1164] Q. And that is what you testified to last week?

A. Yes, sir.

Mr. Cody: I believe that's all.

The Court: Any further—any further questions?

Recross examination.

By Mr. Schroder:

Q. During the time Wallace Butts has been connected with the football picture there at the University, during all of which you were at the University, tell the Court and Jury approximately how much revenue the University has picked up through his football teams?

The Court: I don't think that is relevant, Mr. Schroder. I was simply—probably my evidence was irrelevant. I was simply trying to bring out the full picture, what the Athletic Board was, but we can't go into

Mr. Schroder: I will go back to one of the questions Your Honor asked, and the answer he gave.

The Court: I didn't mean to get into a different field. I was simply making an inquiry for personal information. I did want to know the whole athletic situation. I thought it was pertinent on that.

[fol. 1165] Mr. Schroder: I was glad to find that out myself. I thought the amount of salary paid was pertinent.

By Mr. Schroder:

Q. The amount of salary paid Coach Butts as athletic director was twelve thousand dollars by the Board, wasn't it?

A. Yes, sir; that was his beginning salary.

Q. I mean, as athletic director.

A. Yes; as athletic director.

Q. But he did receive the same amount of money as he had when he was head coach, which would be eighteen-five, didn't he?

A. He did—you mean after he became athletic director? No, sir.

Q. G.S.E.F. didn't pay sixty-five hundred a year?

A. I don't know about that.

Q. You don't know what the Georgia Student Educational Fund is?

A. I know what it is, but I have no knowledge of their records.

Q. You don't know that he got from the University sources the same amount as athletic director that he did as head coach?

A. No, sir.

* * * * *

FRANK SCOPY called as a witness on behalf of the Defendant, after having first been duly sworn, testified by deposition as follows:

[fol. 1166] Direct examination.

By Mr. Joiner:

Q. Will you state your name, please?

A. Frank Scoby, S-c-o-b-y.

Q. What is your residence address?

A. 6141 North Lemont Avenue.

Q. And is that in Chicago, Illinois?

A. Chicago, Illinois.

Q. What is your primary business address?

A. 315 North May, M-a-y. This is Chicago, Illinois.

Q. Do you have any other business addresses, other than that one?

A. No.

Q. What is your home telephone number?

A. Mulberry 5-6662.

Q. And do you have more than one telephone number at home?

A. No.

Q. Would you give us those of your business telephone numbers that you can recall by memory?

A. CHesapeake 3-0800.

Q. Do you remember any of the others?

A. No.

Q. What business are you in, Mr. Scoby?

A. Beer distributing.

Q. And what is the name of your business?

A. Better Brands of Illinois, Incorporated.

Q. What brands of beers do you distribute?

A. Miller High Life.

Q. Any other brands?

A. Ballentine Ale and Amstel.

Q. Do you also distribute distilled beverages?

A. No.

[fol. 1167] Q. Have you, in the last few years, distributed any distilled beverages?

A. No.

Q. Do you now, or have you over a period of the last five years, distributed any alcoholic beverages, except for malt beverages?

A. No, not in five years.

Q. You had some time previous?

A. About eight years ago I had a Scotch, yes.

Q. What brand of Scotch was that?

A. Lean Gramey.

Q. Do you have any interest in the Red Top Brewing Company of Cincinnati, Ohio?

A. Do I have?

Q. Yes.

A. No.

Q. Have you previously had an interest in this company?

A. I operated the company for John MacArthur, an insurance man, for a period of about three years, two years, before we liquidated it.

Q. When was it liquidated?

A. Approximately six years ago. Five or six years ago.

Q. How long have you been in business in the Chicago area?

A. Since 1945.

Q. How long have you lived in the Chicago area, since that time?

A. Since about that time.

Q. Where were you from, originally?

A. Previous to that I was in Detroit, Michigan.

Q. Is that your home?

A. No. My home is Colorado Springs.

Q. Do you know Wallace Butts.

[fol. 1168] A. Yes, sir.

Q. When did you meet Wallace Butts?

A. Oh, about fifteen years ago, I believe. In 1947 or '48.

Q. What were the circumstances under which you met Wallace Butts?

A. It was the time Frank Lahey was coaching the All-Stars and Wallace Butts was on the staff. I met him through Frank Lahey.

Q. Do you remember the year?

A. I believe it was 1947. I am not positive.

Q. How long have you known Coach Frank Lahey?

A. At that time about three years.

Q. Have you seen Coach Butts frequently since the time you first met him?

A. Quite often.

Q. Could you say about how many times each year since then?

A. Some years it may have been two or three. Other years it might have been eight or ten, depending on the situations, whether he was in town or not.

Q. Have you seen him at least once each year since you met him in 1947?

A. Yes, I would say so.

Q. And would you give us your best recollection of what would be the most number of times that you have seen him during this period of any one year?

A. In any one year?

Q. Yes.

A. Seven or eight, possibly ten.

Q. Do you recall now what year that would be?

A. No, not in particular.

Q. Now, to the best of your recollection how many times have you seen Coach Butts over a period of the last three years?

[fol. 1169] A. Possibly fifteen times.

Q. And of those fifteen times, how many of them would have been within the immediate preceding year?

A. Six or seven, I'd say.

Q. Now, during these times that you have seen Coach Butts, where would you usually see him?

A. Normally it would be, because he would just be in town and call me up and I'd meet him.

Q. What places, other than Chicago, have you been with Coach Butts?

A. I was with him once in Atlanta and once in Miami.

Q. Have you ever been to Athens?

A. Never.

Q. Now, I suppose you have been to South Bend?

A. Quite often.

Q. With Coach Butts?

A. Yes.

Q. What would be the occasion for your visit to South Bend with Coach Butts?

A. On two or three occasions when he had a day off he would come up here and go down to see a Notre Dame game. Another time he went to an Old Timers' game, or I think twice we went to an Old Timers' game.

Q. Do you recall attending any other athletic contest with Coach Butts, other than the athletic games you have mentioned?

A. Yes, I attended a Florida game with him about five or six years ago, I guess it was. I'm not sure of the date.

Q. Was that a Georgia-Florida game?

A. Yes, Georgia was playing. I shouldn't say I attended the game with him; I went down to see one of his games.

Q. Do you remember which Florida school?

A. Pardon?

Q. Was it the University of Florida?

A. In Jacksonville.

Q. Did you have occasion to visit with Coach Butts on your trip to Jacksonville during that time?

A. I met him before that game.

Q. Now do you recall any other athletic contests that you have attended or have been present when Coach Butts was present?

A. I saw his game in the Orange Bowl when he played Missouri, I believe.

Q. What year was that, do you recall?

A. I don't remember.

Q. That was the year when the University of Georgia played the University of Missouri in the Orange Bowl in Miami, Florida?

A. That's right.

Q. Now, have you ever attended a World Series game with Coach Butts?

A. World Series Baseball game?

Q. Yes.

A. No.

Q. Have you ever attended any professional football games with Coach Butts?

A. Several All-Star games.

Q. When you say "All-Star games," are you referring to—

A. All-Star football.

Q. Are you referring to the game where the All-Stars from the colleges play the leading team from the professionals for the previous year?

A. That's right.

[fol. 1171] Q. Where is that game played?

A. Soldier's Field, here.

Q. That is here in Chicago?

A. Right.

Q. Do you have any other mutual acquaintances with Coach Butts, other than Coach Frank Lahey?

A. I probably know a great many people that he knows. I don't know of anybody that's close to him that I also know.

Q. Would Coach Wilkenson at Oklahoma be in that group?

A. Coach Wilkenson is a good friend of mine.

Q. Is he also a friend of Coach Butts, or do you know?

A. I wouldn't know.

Q. What other coaches are you acquainted with or considered to be friends with?

A. I probably know thirty coaches.

Q. Could you give us those that you recall, please, sir?

A. I can recall a few of them. I know Coach Brennen at Notre Dame, I know Coach Koherick, I know Coach Jones at Oklahoma.

Q. What is Coach Jones' position?

A. The assistant coach. Brenny Crimmons real well at Indiana. Joe McGartle, he used to be an assistant coach for Notre Dame. Coach Grandalius.

That's all I can think of at the moment. I know a good many more than that.

Q. How about Coach Paul Bryant?

A. Brown?

Q. Bryant, at the University of Indiana.

A. To the best of my knowledge I never met him.

Q. You haven't mentioned any other coaches in the Southeastern conference other than Coach Butts?

[fol. 1172] A. Not that I can recall.

Q. Have you ever made any trips with Coach Butts, other than the one to Miami that you have mentioned?

A. I never made a trip to Miami with Coach Butts?

Q. You just happened to be in Miami at the same time, but you didn't travel together?

A. That's right.

Q. Have you ever made a trip anywhere with Coach Butts, outside of the Chicago area, other than the ones to the South Bend?

A. Not that I can recall. I met him in New York on two or three occasions when he happened to be there when I was there.

Q. Do you recall the occasion for his being in New York when you met him there?

A. No. He was just there when I was there. I go to New York quite often.

Q. You don't recall the occasion for your being there?

A. No particular reason for being there, either one of us.

Q. Now, what was the purpose of your trip to Atlanta?

A. There was a health food product that I thought Coach Butts might be interested in, called—I cannot think of the name of it. That movie guy on the West Coast was mixed up on it. They took it off the market.

I asked some friends of mine who might be interested in it, and they thought Coach Butts might be interested, to give his football players some employment, and I met him there. It's something like Metrecal, but that isn't it. I met [fol. 1173] him there, and after we both heard the spiel, we both thought it was a phony and walked away from it.

Q. Do you remember the name of this company that manufactured the food?

A. No, but I will get it later. A movie star on the West Coast was behind it, and the Pure Food and Drug people made him take it off the market.

Q. Do you remember the name of the movie star?

A. I'll get the name of it later; I just don't recall right now.

Q. Then what would have been the participation of yourself and Coach Butts in this program, if you had decided to go into it?

A. My only interest in it was the fact that Tom Lahey and a couple of other—Tom Lahey was Frank's brother, and a couple of other insurance people were very interested in getting into it on a sectional or territorial basis. Tom suggested to me that Coach Butts might want to put some of his boys to work with it.

Q. In other words, he would be something of a distributor of the product?

A. That's right. As far as Butts and I personally being involved in any one situation, there was no interest or no intent.

Q. Now was it your previous testimony that some friends of Coach Butts suggested to you that he might be interested in this?

A. No, no. Some friends of mine suggested to me that Coach Butts might be interested in it, and the friends were Tom Lahey and a couple of other fellows that worked for Bankers Life and Casualty.

Q. What were their names?

A. I don't know. I just remember Tom Lahey. He is with Bankers Life and Casualty, too. Nutri-bio.

[fol. 1174] Q. Do you know how to spell that, sir?

A. No, I don't.

Mr. Nussbaum: I think it's N-u-t-r-i-b-i-o.

By Mr. Joiner:

Q. When was this trip to Atlanta?

A. As I recall, it's about three years ago. I'm not sure.

Q. And did you—

A. Possibly two years ago would be better.

Q. Is it your testimony that is the only time that you have been with Coach Butts in the State of Georgia, on this one trip?

A. To the best of my knowledge.

Q. On your trips to New York, do you generally stay at any one particular place?

A. Almost always at the Essex House.

Q. Do you know where Coach Butts usually stays on trips to New York?

A. Well, the one or two times I met him there he stayed at the Essex House also, because I told him I was going to be there.

Q. Now, during the time that you have known Coach Butts you testified that he had visited you frequently in Chicago. Were most of those just of a social type, coming up for a football game or something like that, or were they connected with business?

A. They practically were all of a social type. Not necessarily coming up for a game, but if he happened to be in town he would call me and say he was coming in for some reason.

Quite often he would come in and try to get students out of this area. He would say, "I'm going to be in town, let's [fol. 1175] have dinner and a couple of drinks," which we did.

It was always a social situation.

Q. Did you ever try to help him get students in this area to participate in the athletic program at the University of Georgia?

A. I wouldn't dare.

Q. Why?

A. I would get disowned from the alumni of Notre Dame.

Q. Have you ever been involved in any business ventures with Mr. Butts?

A. No.

Q. Have you ever been approached by Mr. Butts to make an investment in a business venture?

A. As far as me making an investment, no. As far as him asking me for advice as to how he could finance various things, yes.

Q. And do you recall these particular projects that he was interested in getting your advice on?

A. Well, one in particular had to do with some small loan companies that he was involved in in Georgia. He needed financing for them.

Another one was some type of a concentrated orange juice situation.

Q. Do you recall on how many different occasions you spoke to him about the small loan companies?

A. Not offhand. I might have had a phone conversation ten or fifteen times with him.

Q. What about the orange grove project, do you remember how many times you spoke to him about that?

A. Several. He sent me a complete rundown on it, and after looking at it I wouldn't advise anyone to invest in it, and I just didn't do anything about it.

[fol. 1176] Q. Do you recall any other projects that he has asked you to give him your advice on?

A. No, just an orange grove, a concentrated orange juice, and a small loan situation is all I recall.

Q. Now did Coach Butts ask you to invest in either the loan companies or the orange grove project?

A. Did he ask me personally to invest in them?

Q. Yes.

A. No.

Q. Did he ask you to try to obtain capital from a Chicago—from the Chicago area, or was he just asking for your advice?

A. No, he asked me to try to obtain capital for all three of them.

Q. And you say all three of them. I don't believe you mentioned but two.

A. Yes, an orange grove and the concentrated orange juice situation, and a small loan company.

Q. Were you able to obtain any capital for any one of these?

A. Frankly I didn't have enough confidence in any of them to approach anybody.

Q. How long did it take you to make up your mind that you didn't have confidence in these particular companies?

A. Well, after he sent the complete brochure and run-down in on particular these two things, the grove and the concentrated orange juice, I didn't think they were good investments for anybody and I wouldn't advise anybody that I knew to put any money in them.

* * * * *

[fol.1177] Q. Did you receive information about these companies within a short while after Coach Butts first spoke to you about them?

A. It was over a period of time. I don't recall the time. Probably—we discussed them at various times over a period of seven, eight or nine months.

Q. Do you recall any one particular time when you were carrying on these discussions, more than any other previous time?

A. Yes. I met somebody named Surgent down in Miami with Coach Butts. He asked me to come down and see this gentleman, whoever he—I even forget the name of the company that he represented that had to do with the concentrated orange juice.

After I had had the brochure, the rundown or the statements or whatever you want to say on the entire set-up, I told Wally I didn't think the deal was a solid deal and he asked me to come down and meet Mr. Surgent with him, which I did.

He said that Mr. Surgent could probably explain it better and I would understand it better.

After I got there I was still of the same opinion.

Q. When did you go down to see Mr. Surgent?

A. About two years ago.

Q. After you went down to see Mr. Sargent did you have any further discussions with Coach Butts about this particular project?

A. Possibly. Probably I did.

Q. Would it have been any number, or—

A. You don't just tell a guy, "Well, I don't think your deal is any good," and walk away. You let him talk, I probably talked to him six or eight or ten times about it since.

Q. Now other than that particular period two years ago, [fol. 1178] has there been any period of time since you have been dealing with Coach Butts on these projects in which there was more activity than normal?

A. No, I don't think so.

Q. Would you state whether or not you have invested in a company known as Continental Enterprises, Incorporated?

A. Well, I don't recall investing in it. I bought some stock in it.

Q. Do you recall the amount of your investment in that company?

A. Not offhand. I have got records of it, but I don't recall what it is.

Q. Could you give us an approximation of the amount?

A. Some sixteen or eighteen thousand dollars, I think. Somewhere in that neighborhood. Maybe twenty-three thousand dollars, I am not sure.

Q. How have you fared on that investment?

A. Not well.

Q. Do you have any idea approximately how much your loss has been on the investment?

Q. I got out of some of it before it went all the way down. I probably, today, have about an eight or ten thousand dollar loss.

Q. How did you come to invest in this particular company?

A. Coach Butts called me and told me he thought it was a good investment, that there was indication that they

were about to get a deal with Coca-Cola or Pepsi-Cola, or some big outfit that had something.

I think Corn Products was one of the people that he mentioned.

Q. Did he send you information about this company, or did you have access to it from other sources?

[fol. 1179] A. No, I just took his word for it. That's a very normal thing on a stock. It's like going to the races.

Q. Do you know a gentleman by the name of Louis Wolfson?

A. I have met him.

Q. Do you recall when and where you met Mr. Wolfson?

A. I met him through Frank Lahey.

Q. Do you remember when?

A. Approximately ten years ago in New York, at the Plaza Hotel.

Q. How many times have you seen Mr. Wolfson since then?

A. Possibly twice. Not over twice, I don't think.

Q. Do you recall when these two times were?

A. No. Well, one time, yes.

I met him outside of the Stadium the night that Georgia played Missouri. Other than that I don't remember meeting him.

* * * * *

DR. H. M. DAVIS 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. Davis, will you give your full name to the Court Reporter?

A. Dr. H. M. Davis, Dr. Hamilton Maxmillian Davis.

Q. Are you a dentist practicing in Atlanta, Dr. Davis?

[fol. 1180] A. Yes, sir.

Q. Where is your office?

A. In Buckhead, 3110 Roswell Road.

Q. Speak so these Jurors can hear you, Dr. Davis.

A. Yes, sir.

Q. In response to a subpoena have you brought your records into Court, certain records into Court with respect to one of your patients, Mr. John C. Carmichael?

A. I have brought some that I felt were pertinent to this.

Q. Yes. Will you state to the Court whether or not you have, since the service of this subpoena on yesterday, undertaken to determine whether or not Mr. John C. Carmichael was a patient of yours on September the 13th, 1962?

A. We have examined, meaning people in my office, have examined the record, and we find nothing to indicate that.

Q. What records did you examine?

A. We took last year's appointment books, both the hygienist's and mine, we took our back records insofar as perhaps a deposit could have been made. We took our daily sheet from which we transpose to a file card a more complete record of the patient.

Q. Did you check your X-ray records?

A. We checked X-rays, the date that X-rays were made. We went back to his original appointment as a patient, traced it right up to the present day. There were intervals when we did not see him.

Q. How long have you been practicing dentistry in Atlanta?

A. December 15th, 1934. I think that is about twenty—it will be twenty-nine years.

[fol. 1181] Mr. Cody: I believe that's all.

Cross examination.

By Mr. Schroder:

Q. Was he a patient of yours during that period in 1962?

A. Yes, sir.

Q. Mr. Cody didn't indicate to you that he testified positively that he had gone to your office on September 13, did he?

A. I am sorry; I'm afraid I don't follow you.

Q. Did Mr. Cody or someone from his staff, they didn't indicate to you that Mr. Carmichael had not testified positively that he had gone to your office that morning?

A. I was told that he might have been there.

Q. Might have been there?

A. Yes, sir.

Mr. Schroder: All right, sir, that's all.

Examination.

By the Court:

Q. Doctor, did your records show any time in September, 1962, that Mr. Carmichael was a patient of yours?

A. There is nothing to indicate that. The first—there was an interval there we did not see him for a while, and then the first appointment of '62, 1962, our records show the 4th day of October, 1962.

[fol. 1182] Q. That was the only appointment that your records show he had in 1962?

A. No, sir.

Q. All right, sir.

A. Following that he had one, I think it was the 12th. I jotted it down.

Q. In other words, for the year 1962, October the 4th, 1962 is the first date that your records indicate he came to your office; is that correct?

A. October 4th, 12th, 26th, 31st.

* * * * *

FRANK SCOBY testified further by deposition as follows:

Direct examination (continued).

By Mr. Joiner:

Q. Do you recall when those two times were?

A. No. Well, one time, yes.

I met him outside of the Stadium the night that Georgia played Missouri. Other than that I don't remember meeting him.

Q. And that was in Miami?

A. Right.

Q. Do you know a Mr. Sam Wolfson?

A. I think I met him once.

Q. Do you recall when and where you met him?

A. At about the same time in Frank Lahey's home in Long Beach, Indiana.

Q. Do you know Mr. George Solitare?

Mr. Schroder: Who?

[fol. 1183] By Mr. Joiner:

Q. George Solitare?

A. Not that I recall.

Q. Other than the business ventures that you have already discussed in which Coach Butts was interested, have you-all had other business dealings?

A. Not that I recall.

Q. Have you discussed any possible future business dealings that maybe didn't go through?

A. No.

Oh, yes, yes, I have.

Q. Would you tell us about that, please?

A. Yes, I have.

I'm about to attempt to make a Scotch brand name, called Sir James Douglas, and I discussed that with Coach Butts after he severed his connection as coach of Georgia, that I might want him to take over the Southeastern section of the country for this as a representative. And that is still a possibility.

Q. Would this Scotch be made here in this country?

A. Bottled in Scotland.

Q. And is that a new brand name?

A. Yes.

Q. It would be your brand name, and you would import this Scotch?

A. That's correct.

Q. Now, what would Coach Butts' duties and responsibility in connection with the distribution of this product be, if the deal goes through?

A. It would be his duties and responsibilities to hire salesmen in certain areas and get distributors for it and be an over-all representative for the product in certain states, and to see that it was properly handled when it got into accounts and probably supervise the sales personnel.

[fol. 1184] Q. Had your discussions reached the point where you could tell me the states that Coach Butts would handle it if the deal does go through?

A. Well, I had in mind Florida and the Southeastern tip of the country down there. There was nothing done, never anything definite.

Q. Would that include Alabama, Georgia, South Carolina?

A. Probably it would. There has never been anything definite about it. That's probably it, yes. That's the thoughts I had in mind on it.

Q. Now what compensation would Coach Butts receive for his part in distributing this product?

A. Well, there was never anything definite on it. It never got that far. Probably it would be some type of drawing account against a commission.

Q. What generally would be the commission for a person in this capacity in the distribution of a product? Is there any set commission in the industry?

A. No, there is nothing set on that. That would be something that would vary, that would have to be mutually worked out.

Q. Could you give us an indication of approximately what commission you had in mind?

A. No, I can't because I didn't have any commission in mind.

Q. Could you give us an indication of, in the industry as a whole, the approximate commission that would be paid?

A. There is no set deal on that. It depends on the man's ability to produce.

Q. Have you negotiated with people in the other areas of the country about the distribution of this product?

A. Yes.

[fol. 1185] Q. And what stage have your negotiations reached with these people?

A. Nothing definite, other than my own organization. I have had some brief conversations with Frank Lahey about being the representative in the Northwest on it, and no definite arrangements.

Q. If you do decide to go through with this project, could you give us an indication of when you will start distributing this product?

A. Yes. Probably about the 10th of August in New York, and about the 20th here.

Q. Do you feel now that you are going to have this product distributed by that time?

A. Yes.

Q. Is it a definite thing now?

A. It is on the water.

Q. In other words, the distribution of this product by you is definite, but there is no definite deal worked out with Coach Butts?

A. Not with anybody else, not with anybody else.

Q. Not with Coach Butts or anybody else in the country?

A. No.

Q. What about the Chicago area? Would you distribute it yourself in this area?

A. That's right.

Q. Have you filed your label with the Liquor Control Commission in the State of Illinois?

A. Not yet. I have Federal approval on it.

Q. And what Federal agency gives approval on that type of thing?

A. The Alcohol Tax Unit.

Q. Do you recall the number of your import license, or if you don't have one, the import license of Better Brands of Illinois, Incorporated?

[fol. 1186] A. No, I don't have it. I can get it for you, but I don't have it.

Q. Does Chi-1-96 sound like it might be this number?

A. I don't know the number.

I can make a phone call for you and get it for you if you want it.

Q. No, I don't think that will be necessary.

Do you recall the dates when you were in New York and Coach Butts was also there, or if you don't recall all of them do you recall any particular dates?

A. I don't recall any of them.

Q. Do you know whether or not any of them have been in the last two years?

A. I think so, on one or two occasions.

Q. Would you say whether or not you have ever loaned any money to Mr. Wallace Butts?

A. Not directly.

Q. Have you indirectly?

A. I arranged a loan for him at a bank.

Q. Would you tell us about that loan, please?

A. I think it was early in 1962. He said he needed ten thousand dollars for awhile, and I asked my bank if they would loan him ten thousand dollars if I would endorse the note.

They said they couldn't go over six thousand dollars because he wasn't a depositor and he wasn't a customer. He did get a six thousand loan at about that time, and I endorsed the note for him.

Q. Do you know whether or not that loan has been paid?

A. I think the present balance on the loan is about one thousand, five hundred.

Q. Have you ever made any gifts to Coach Butts or any members of his family?

[fol. 1187] A. Not that I recall.

Q. During the time that you visited in Atlanta what people, other than Coach Butts, were you with?

A. I don't remember anybody else.

Mr. Joiner: Skipping down to the third question on that page.

By Mr. Joiner:

Q. Would you state whether or not you consider Coach Wallace Butts to be a close, personal friend of yours?

A. I do.

Q. When have you last seen Coach Wallace Butts?

A. Oh, approximately three or four months ago.

Q. Where did you see Coach Butts at that time?

A. Here in Chicago.

Q. Have you ever been in Los Angeles area when Coach Butts was there, or in the Los Angeles area?

A. Not that I recall. I have been in Los Angeles a lot of times, but I don't remember ever meeting Coach Butts out there.

Q. I believe some of your family live in the Los Angeles area, is that correct?

A. My mother did live there.

Q. And is your mother now deceased?

A. That's right.

Q. Do you know a John Smith from Atlanta?

A. Is he in the produce business?

Q. Yes.

A. I think he was up here on one or two occasions with Wally.

Q. Do you know his partner, Mr. Sonny East?

A. No.

Q. Do you know Mr. Frank Childs?

[fol. 1188] A. I met him once at an All-Star game bout eight years ago.

Q. Was that here in Chicago?

A. Here in Chicago.

Q. Have you seen him at any time since then?

A. No.

Q. Do you know Mr. C. D. Young? He is from Atlanta.

A. No.

Mr. Joiner: Skipping now to Page 33, second question.

By Mr. Joiner:

Q. Do you know a gentleman by the name of John Marcus from Augusta, Georgia?

A. No.

Mr. Joiner: Now, to Page 34, the last question on that page.

By Mr. Joiner:

Q. During the college football season of 1957—

Mr. Schroder: Wait a minute until I catch up with you.

Mr. Joiner: Page 34, the last question.

Mr. Schroder: All right, sir.

By Mr. Joiner:

Q. During the college football season of 1957, did you place any telephone calls to Terre Haute, Indiana?

[fol. 1189] A. I may have.

Q. Do you recall whether or not you did?

A. No, I don't.

Q. Do you recall placing telephone calls to Mr. Leo Shaffer?

A. I do.

Q. What was the purpose of these telephone calls?

A. Wager on football.

Q. During the football season of 1957, do you recall approximately how much money you bet on football games?

A. I think approximately fifty thousand dollars over the season.

Q. Will you state whether or not the entire amount was placed with Mr. Shaffer?

A. Yes, I think it was.

Q. Would you state whether or not all of your wagers were placed on the telephone?

A. Yes, I think the majority of them were, if not all.

Q. Would you state whether or not you bet on both college and professional football games?

A. I probably did.

Q. Would you state to the best of your recollection the smallest wager that you placed with Mr. Shaffer during the college football season of 1957?

A. Individual wager?

Q. And what was the amount?

A. An individual wager on one game?

Q. Yes.

A. It probably was five hundred dollars.

Q. Would you explain what you mean by "individual wager"?

A. A wager on any particular game.

Q. On any one particular game?

[fol. 1190] A. Yes.

Q. And do you recall the largest wager that you placed on any particular game during the 1957 football season?

A. Probably two thousand dollars.

Q. What would be the odds on your bet on these games?

A. Eleven to ten.

Q. Would you explain to the Court and Jury the meaning of an 11-to-10 odd?

A. You have to bet one thousand, one hundred to win one thousand, or if you lose, you lose one thousand, one hundred. If you win you win one thousand dollars.

Q. And would you state whether or not it would be correct to say that when the odds are 10 to 11, you would have to bet three thousand, three hundred to win three thousand dollars?

A. That is correct.

Q. Would you state whether or not on this particular football season—

Mr. Schroder: I think you ought to read what comes after that.

Mr. Joiner: All right. "Mr. Schroder: What do you mean by this particular football season? Mr. Joiner: The one which we have had reference to in the last several question, that of the 1957 season."

[fol. 1191] By Mr. Joiner:

Q. (continuing) —your bets would be on a particular game to be won by a particular team by a certain margin?

A. That's right.

Q. And could—

A. Not necessarily on a particular game, I might bet ten games one Saturday.

Q. And could you give an indication of how you would determine which teams to bet on?

A. Everybody has their own system on that. It's guessing and doping.

Q. Well could you give us your system?

A. Well, I didn't have any. The proof of that is that I lost pretty good.

Q. Would you have any advance indication of what the point margin for the teams would be?

A. Pick up any newspaper in the United States and find it.

Q. Where do newspapers get that from, do you know?

A. No, I don't.

Q. Is it uniform throughout the country?

A. Pretty uniform, as far as I know.

Q. If you bet on a particular team and were given 19 points, what would have to be the score of the game in order for you to win?

A. You were giving 19 points or getting?

Q. Giving.

A. They would have to win by 20 points.

Q. And then what if they were taking by 19 points?

A. They would have to lose by 18, or they would have to win by less than 19, excuse me.

Q. What would happen if they won by 19 points?

A. It's no bet, it's a tie.

[fol. 1192] Q. What do you mean when you say "no bet"?

A. It's no bet, it's a tie.

Q. Then what would happen with reference to your money that you put up?

A. Nothing. No action.

Q. You wouldn't get that money back?

A. I never put up money. You don't put up money over a telephone.

Q. Well, how was the accounting procedure for the betting handled, if you didn't actually put money up?

A. You settle over 30 days one way or the other.

Q. Do you recall how many times you settled during the 1957 season?

A. No, I don't.

Q. Do you recall approximately how much you won or lost during the season?

A. As I recall, I lost somewhere between twelve thousand dollars and fifteen thousand dollars during the season.

Q. How would the amount that you won or lost be transported to or from you?

A. Someone would come in and pick it up or deliver it. You would check a figure with them.

Q. Do you recall the name of the person who came by to pick it up from you?

A. Somebody named Lefty.

Q. Do you know his last name?

A. No. I've only seen him on maybe one occasion, or two occasions.

Q. Would you state whether or not you knew this person that you refer to as Lefty prior to the time that the 1957 football season began?

A. No.

[fol. 1193] Q. What if any disagreement did you ever have with Leo Shaffer as to the balance that you owed him or he owed you?

A. I don't ever recall having any.

Q. Was Mr. Shaffer carrying on this operation by himself, or with others?

A. I don't believe so. As I recall, there were several of them on trial in there.

Q. Did you personally know any of the others, other than Mr. Shaffer?

A. No.

Q. Would you state whether or not you placed wagers on football games during seasons prior to 1957?

A. May have placed a few small bets previous to that. I just don't recall. That was the year I got my—got the ring in my nose.

I don't think I did.

Q. Would you give us some indication of the amount you may have bet during the years previous to 1957?

A. I don't recall.

Q. If you did that any at all?

A. I don't recall any bets previous to that.

Q. And when you say that you may have bet, are you referring maybe to bets with a friend who would attend any game with you, five dollars, or something like that?

A. Certainly, you always do that.

Q. Do you still do that?

A. Occasionally.

Q. Do you remember what this fellow, Lefty, looked like?

A. No, sir.

Q. And will you tell us how many occasions you remember seeing Lefty?

[fol. 1194] A. Possibly once. I think in the two or three times he was in there I wasn't even there. I would just leave an envelope for him, and he would pick it up.

Q. Do you recall Wallace Butts visiting you during the football season of 1957?

A. I don't recall any particular instance, no.

Q. Well, did he visit you at any time during the season?

A. He may have. I don't know. In fact, I think possibly that year he might have been up to the All-Star game. I am just not sure about it.

Q. Did Coach Butts usually stay in one particular place when he visited Chicago?

A. No, not that I know of.

Mr. Joiner: Page 44, first question.

By Mr. Joiner:

Q. Mr. Scoby, did you testify at the trial of Mr. Leon Shaffer in 1959?

A. I did.

Q. Do you recall the charge that was made against Mr. Shaffer?

A. I know it had to do with—all I know is that it had to do with the Federal Gambling Stamp situation.

Q. And do you recall the time of year when that trial was held?

A. No, I don't, offhand.

Mr. Joiner: Page 45, second question.

[fol. 1195] By Mr. Joiner:

Q. Would you state whether or not your testifying in this particular trial received some publicity in the Chicago papers?

A. It received a great deal.

Q. Do you recall whether or not it was in all the papers?

A. No, I didn't read all the papers. All I can tell you is it received a great deal of publicity.

Q. Mr. Scoby, I show you Defendant's Exhibit 3 of this date, and ask you to state to the best of the recollection whether or not this is in fact an article about your testimony in Leo Shaffer's trial, which appeared in the Chicago Daily News on July 18, 1959?

A. It appears to be.

Q. And do you recall a number of articles of similar import being in the Chicago papers during that period of time?

A. Yes, sir.

Mr. Joiner: Skipping now to Page 48, the third question.

By Mr. Joiner:

Q. Mr. Scoby, have you been engaged in any gambling activities whatsoever over the period of the last year?

A. No, sir.

Q. Have you had occasion to visit the State of Nevada during the period of the last year?

A. Now wait a minute. Let me clarify that question. Illegal gambling activities, no. Legal, yes.

Q. Would you give us a summarization of your legal gambling activities in the past year?

A. I've done some in Las Vegas in the past year.

[fol.1196] Q. Would you give us an approximation of how much you won or lost during the past year?

A. No.

Q. Could you tell us whether or not you won or lost?

A. I probably have lost. It hasn't been any great amount either way.

Q. Will you state whether or not you consider one hundred thousand dollars to be a great amount?

A. I consider it a great amount, yes, sir.

Q. And would you state whether or not your losses for this past year have approached that amount?

A. No, they have not.

Q. Would you give us your best estimate of your losses for the past year?

A. Crap table, mostly.

Q. Any other, in addition to that, during the times that you visited Nevada?

A. Possibly a little roulette.

Mr. Joiner: Page 52, question 5.

By Mr. Joiner:

Q. Do you recall the number of times that you visited Nevada during the last year?

A. No, I don't.

Q. Could you give us an approximation?

A. Maybe four.

Q. Would you state whether or not your gambling activities are confined to the State of Nevada, or do you also at times carry on these activities outside the State of Nevada?

A. Not recently, in the last several years.

Q. Would you elaborate on that answer with reference to the previous question, please?

[fol. 1197] A. Well, this deal in Terre Haute had the effect of curing me of this type of activities. No activities since then of any appreciable amount.

Mr. Joiner: Page 55, last question on the page.

By Mr. Joiner:

Q. Have you had occasion to speak with Wallace Butts on the telephone over the period of the last year?

A. Yes.

Q. Do you have an approximation of how many times you have spoken with him?

A. I would estimate somewhere between 25 and 40.

Q. And what was the subject of these telephone calls?

A. Some of them were just things that personal friends would talk about over the telephone for no reason. Some of them were Butts trying to get established in various fields since he was no longer coaching. That's about the extent of it. In fact, that is the extent of it.

Q. Mr. Scoby, would you state whether or not you consider yourself to be a compulsive gambler?

A. I certainly will: I am not.

Q. What is your answer to that?

A. I am not.

Q. Have you recently made a statement to the effect that you are a compulsive gambler?

A. No, sir.

Q. Would you state whether or not your gambling activities—

[fol. 1198] Mr. Schroder: Go ahead.

By Mr. Joiner:

Q. —have been something you have attempted to hide from your friends?

A. No.

Q. Most of your friends are aware of your gambling activities?

A. Well, I didn't put it in the newspaper.

Q. But your intimate friends would be aware of your gambling activities, is that right?

A. I don't know what my friends are aware of. I will make the statement that I haven't attempted to hide it.

Mr. Joiner: Page 64, the fourth question.

Mr. Schroder: Just a moment; let me catch up. Go ahead.

By Mr. Joiner:

Q. Mr. Scoby, do you recall receiving a subpoena to appear and testify at this deposition?

A. Yes, I did.

Q. And do you recall the date and times set in the subpoena for your appearance?

A. The date and time set for this appearance?

Q. Set by the subpoena for your deposition?

A. Yes.

Q. Would you state what that date and time was?

A. 2:00 P.M., on the 22nd of July.

Q. Would you explain to the Court and Jury why you did not appear at that time?

A. I didn't appear on advice of counsel.

[fol. 1199] Mr. Schroder: If the Court please, the last subject matter, I think, that was being discussed in the reading of the deposition, I think the record ought to show when he says he was advised by counsel that he said his own counsel.

The Court: Yes, sir.

Mr. Schroder: I don't want there to be any question about it.

The Court: All right, sir.

Mr. Schroder: And the second one, I believe Mr. Joiner pointed out, the deposition was taken on Tuesday, July the 23rd, and I think the date they were talking about was July the 22nd.

The Court: 22nd; yes, sir.

* * * * *

Cross examination.

By Mr. Schroder:

Q. Mr. Scoby, counsel for the Saturday Evening Post has spent considerable time cross-examining you or examining you this morning, but he has studiously avoided asking you anything in connection with the article which [fol. 1200] his client has published in its March 23, 1963, issue.

Now, for the record I think it ought to be made known to you that his client denies under oath that it ever implied that there was any gambling motive in connection with the article it wrote in the Saturday Evening Post.

Let me ask you some questions now, which I think might be relevant to the article published by the Saturday Evening Post forming the subject matter of this libel suit.

I think counsel also failed to ask you anything in connection with any telephone conversation which you might have ever had with Wallace Butts, although yesterday he subpoenaed all the records of your home telephone and your office telephone from the Illinois Bell Telephone and Telegraph Company.

In any telephone conversation that you have ever had with Wallace Butts at any time, was the subject matter of betting the outcome of any athletic event ever discussed?

A. No, sir.

Q. To your knowledge did Wallace Butts ever have any information which might indicate to him that you had bet or would bet or might have bet on the outcome of any athletic event without regard to when it might have taken place?

A. Not to my knowledge.

Q. Did you ever discuss betting on any games of any kind with Wallace Butts?

A. No, sir.

Q. In September, 1962, the records indicate that there were approximately three telephone calls placed by Wallace Butts to you. Would you please refresh your recollection [fol. 1201] and tell the Court and Jury what the substance of those telephone conversations were?

A. I don't actually recall any of them, with the exception of one about that time.

Q. Do you recall a telephone conversation having been placed to you by Wallace Butts from Birmingham, Alabama, on September 22, 1962?

A. I don't recall that specific call, no.

Q. Do you recall a man by the name of Sargent talking to you about that time from Birmingham with Wallace Butts?

A. At approximately that time I recall talking with Mr. Sargent.

Q. That was in connection with what subject?

A. It was in connection with financing on this concentrated fruit juice.

Q. During September 1962, or at any time prior to September, have you ever had any telephone conversation with Wallace Butts which related in any manner to a forthcoming game to be participated in by the University of Georgia football team?

A. Well, I may have said, "Well, how do you think you'll do," when he was coaching. I certainly wouldn't say that I haven't asked that question. But that has never been anything further than that.

Q. That was while he was coaching?

A. That's right.

Q. In September 1962, did you have any conversation with Wallace Butts in which he indicated to you that he felt you should place a bet on the outcome of any game played by the University of Georgia?

A. No.

Q. Have you at any time discussed with Wallace Butts on long distance telephone or in person what his thoughts might be with regard to a forthcoming football game so [fol. 1202] that you might be in position to place a bet on the outcome of that game?

A. Well, I would assume that just in the normal conversation when he is up here to an All-Star game, I would say, "Well, how do you think this game will come out tonight, Wally?" Other than some casual remark like that, the answer is no.

Q. Would you use that information to bet on the outcome of the game?

A. No, sir, I certainly would not.

Q. What church do you belong to, Mr. Scoby?

A. Queen of All Saints.

Q. Here in Chicago?

A. Yes.

Q. What religion is that?

A. Catholic.

Q. Are you active in your church activities?

A. Pretty active.

Q. You have a son practicing law here in Chicago?

A. Yes, sir.

Q. He is a graduate of the University of Notre Dame?

A. And Northwestern.

Q. Where did he take his law?

A. Northwestern.

Q. And took his undergraduate at the University of Notre Dame?

A. Right.

Q. How many other children do you have?

A. Three.

Q. Do they live at home?

A. Yes.

Q. What clubs do you belong to here in Chicago?

A. Illinois Athletic and the Chicago Athletic and the Edgewater Golf Club.

[fol. 1203] Q. What have you and your company done towards sponsoring underprivileged athletic teams here in Chicago?

A. We sponsor several Puerto Rican teams.

Q. Did you bring a team from New York to Chicago this past summer?

A. I brought the Puerto Rican All-Stars or champions in here to play the Chicago champions.

Q. Will you now take the Chicago champions to play the New York champions to play the New York champions?

A. On the second of August.

Q. Is it fairly difficult to get into these clubs that you have referred to here in Chicago, the IAC or the Illinois Athletic Club, or Chicago Athletic Club?

A. I don't know that it is. I didn't have any trouble with them.

Q. I believe you testified when you were being questioned by the lawyer for the Saturday Evening Post that you learned your lesson, so to speak, when you testified for the United States Government in the case brought by the United States Government by the party that was referred to here earlier by the name of Shaffer?

A. I think I did.

Q. And it is your testimony today that insofar as your knowledge is concerned Wallace Butts knew nothing about that activity or that team or that case?

A. I couldn't say that he didn't. It was in the newspapers.

Q. But that was in the Chicago newspapers?

A. As far as my personal knowledge is concerned, I don't know that he knew anything about it.

Q. You never discussed it with him?

A. No, sir.

[fol. 1204] Q. You never discussed gambling with Wallace Butts?

A. Not to the best of my recollection. Certainly not on football.

* * * * *

Q. During the year of 1957, were you a mem-

Q. Were you also a member of these clubs that you testified that you belong to?

A. I certainly was.

Q. Will you state—

Mr. Schroder: These questions are being asked him by the Post lawyers, this being the re-direct.

The Court: What page are you on?

Mr. Schroder: 81, Your Honor, right at the top.

Mr. Lockerman: About the middle of the page.

The Court: I see.

By Mr. Schroder:

Q. Will you state who paid for the hotel room and consequential expenses thereto in New York City at the time you were together with Coach Butts at the Essex House in New York City?

[fol. 1205] A. I probably did, I am not sure. The chances are that I paid for it, which is not an unusual thing. I paid for lots of people's rooms.

Q. One of the necessary essentials to your business is entertainment of people in general, is it not?

A. That is correct.

Q. What do you approximately contribute to your church per year in the way of donations?

A. Approximately six thousand dollars.

Q. You have referred, on your direct examination, to various all-star colleges against the leading pro team here in Chicago, which is the game put on for the Milk Fund every summer?

A. I don't know what the fund is, but it is a charity fund, a Chicago charity.

Q. Those games have been played over how long a period of time?

A. I think they have been on ever since I have been in Chicago.

Q. Didn't Arch Ward begin those games back in 1933 or 1934?

A. I don't know when they began.

Q. Since you have been living here in Chicago what is your custom with reference to entertaining visiting dignitaries such as football coaches from all over the country and outstanding players?

A. Well, for about the first—from, say, about 1950 through '56 or '57 or '58 we always—we started having an All-Star party previous to the game, and then taking people out in buses. It becomes such a big thing around 1958, that we discontinued it. We used to have as high as—well, at the last one was about five hundred people, and we probably, at that time, would have fifty coaches as our guests [fol. 1206] out of the five hundred people. The rest of them would be our customers.

Then it got so big we couldn't handle it any more, and we discontinued it. The last few years we have just had smaller parties of ten, fifteen or twenty people.

Q. You would take those fifteen or twenty people to dinner before the game?

A. And then bring them back after the game.

Q. And take them to the game as your guests?

A. That's right.

Q. Reference has been made to frequent trips that you have made to New York City. Are you also engaged in business in New York City?

A. I am distributor for Miller High Life Beer in New York City.

Q. Now, Miller High Life Beer is owned by the Miller family, of Milwaukee?

A. That's right.

Q. And the former president of that company, who is now deceased, was Fred Miller who was captain of the University of Notre Dame Football team in the late twenties, 1929, I believe?

A. Yes.

Q. Frank Lahey played on the same team with Fred Miller whose family owned Miller High Life, and he was president until his death a couple of years ago?

A. That is correct, about six years ago.

* * * * *

DR. O. C. ADERHOLD having resumed the stand, testified further as follows:

[fol. 1207] Cross examination (continued).

By Mr. Schroder:

Q. Dr. Aderhold, you testified yesterday, I believe that Coach Butts looked upon you as an adviser of his?

A. Well, he said that he appreciated my counsel and came to see me to talk about some of his problems.

Q. After Coach Butts resigned as head football coach, you and the other officials there at the University of Georgia began to look around for someone to succeed him as head football coach?

A. Yes, sir.

Q. Coach Butts, at that time, recommended as his successor Johnny Griffith, didn't he?

A. Well, I believe I will have to make an explanation as a part of that answer.

Q. Will you give me the answer first, and then you can explain it, sir.

A. Mr.—Coach Griffith was on his list, and he estimated that he was probably the best prospect on a list that he sub-

mitted. That was not a complete list that the coaching committee interviewed, however.

Q. Well, then, the answer to my question would be "Yes", would it not? He had him at the top of his list as coach to succeed him as head football coach at the University of Georgia?

A. Well, he listed those that he thought had possibilities of succeeding him as head coach, and in a note—well, he evaluated each one of the, made some evaluation of each one of them, and regarding Johnny Griffith he said, "He is a good organizer; he will have the respect of other coaches, and he is probably the best prospect of the staff."

[fol. 1208] The Court: Did you take that to be that that was his number one choice?

The Witness: I would interpret that to be correct.

By Mr. Schroder:

Q. In 1961—

A. May I—the explanation that I would like to make is that when Coach Butts visited me on the Sunday afternoon that he indicated that he wanted to be relieved as head coach, we talked about not only a successor, without calling any names, but a successor, and spent a considerable length of time as to the major responsibilities that he would assume or could assume if the Board elected him as a full-time athletic director. Among other things he said that, "I think the Board ought to make this decision, but I will supply to you and any committee, anyone else you want to, my private evaluation." And it was in respect that he submitted a list of all the coaches that he thought had possibilities, and made an evaluation of them, all the coaches that are now—that were at that time on the staff.

Q. And as you just said, you interpreted that to mean that Coach Griffith was his Number One choice?

A. Yes. He did not, I must say, rate them or say "This is my choice," but he did say that, "I think these qualities would indicate that he would be a good coach." He talked

about some of the others and indicated what he thought were their strengths and weaknesses.

Q. In 1959, Coach Butts was elected to the presidency of the American Football Coaches Association, wasn't he?

[fol. 1209] A. Yes, sir; I believe that's right.

Q. And there have only been, throughout the history of that Association, two other coaches given that honor in the whole time, Coach William Alexander of Georgia Tech and Coach Dan McGuggan of Vanderbilt?

A. I really don't know.

Q. You don't know? Before you became President of the University of Georgia, Dr. Aderhold, Coach Butts had been head coach at the University approximately ten or eleven years, hadn't he?

A. Yes; ten or eleven; I don't remember whether it was '39 or '40 he was elected head coach.

Q. And during that time he produced six bowl teams, didn't he?

A. I don't know; I am sure that must be right.

Q. In 1950 when you became President until Coach Butts retired as head football coach there was but one Bowl team produced, was there?

A. That's correct.

Q. Now, in 1959, Coach Butts was elected the Number Two football coach in the whole United States, wasn't he?

A. I believe so; I am not sure of the year.

Q. You referred in your testimony yesterday to what was said at the meeting on February the 22nd of this year, and you testified that although you weren't sure, I believe, whether Coach Butts was asked to sign an affidavit, you were sure that he was asked to submit to a lie detector test, didn't you?

A. Yes, sir; I thought both, but that was my testimony, and that is the way I remember it.

Q. You know that he has taken one since then, don't you?

[fol. 1210] Mr. Joiner: May it please the Court, I don't believe that this evidence would be admissible unless we are

going to show the circumstances under which the tests were taken, the type of tests that were taken, where it was taken, and the operator who administered the test.

The Court: I will let him show he took a test. I will not let him show any results of any test. Do you understand that? All parties understand that?

Mr. Schroder: Yes, sir.

The Court: All right, sir.

By Mr. Schroder:

Q. But you do know I made him take tests since then, don't you?

A. I saw that in the press; yes, sir.

Q. During your ten year period or your tenure of office at the University as President, Wallace Butts was more or less known as "Mr. Georgia"; wasn't he?

A. Well, he had several names. That was one of them, by some people; yes.

Q. Before the Saturday Evening Post published its article on March 23, 1963, did anyone from the Saturday Evening Post talk to you?

A. No, sir; I don't believe so.

Q. Do you know Charlie Trippi—

A. Yes, sir.

Q. —of the University—formerly of the University of Georgia football staff?

[fol. 1211] A. Yes, sir.

Q. He resigned, I believe, during this past summer?

A. Yes, sir.

Q. His family still lives in Athens, and he does when he is not away from the City?

A. Well, I don't know; I assume so.

Q. He has lived there for a number of years?

A. Yes; that's correct.

Q. Are you familiar with his reputation in the community?

A. Yes, sir—well, I think I am.

- Q. Is it good or bad?
- A. As far as I know it is good.
- Q. Would you believe him under oath?
- A. Yes; I think I would. I don't know of any reason that I wouldn't.
- Q. Do you know John Gregory?
- A. Yes, sir.
- Q. He is still on the staff there as the defensive coach?
- A. Yes, sir.
- Q. He also has lived in Athens a number of years, has he not?
- A. Yes.
- Q. Are you familiar with John Gregory's reputation in the community?
- A. Well, I don't know that I am.
- Q. You don't know that you are? Is that your answer?
- A. Yes; I think that is a fair answer.
- Q. You know Bill Hartman?
- A. Yes, sir.
- Q. Former President of the University of Georgia Alumni Association?
- [fol. 1212] A. Yes, sir.
- Q. He is presently a trustee for the Georgia Student Educational Fund?
- A. Yes, sir.
- Q. He lives in Athens?
- A. Yes, sir.
- Q. You know Bill Hartman's reputation in the community in which he lives?
- A. Yes; I do.
- Q. Is it good or bad?
- A. It is good.
- Q. Would you believe him on oath?
- A. Yes, sir.
- Q. You know the Captain of the 1962 Georgia football team named Ray Clark?
- A. I just know him as a football player; I don't know him personally.

Q. Do you know his reputation in the community?

A. No, sir.

Q. Sir?

A. No, sir.

Q. Do you know Brigham Woodward?

A. I know he is on the team.

Q. You know his reputation in the community?

A. No, sir.

Q. You know Mickey Babb?

A. I know he is on the team.

Q. Do you know his reputation in the community?

A. No, sir.

Q. Do you know Wally Williamson?

A. Yes, sir; I do.

Q. Do you know his reputation in the community?

A. No; I don't believe I do.

* * * * *

[fol. 1213] DR. FRANK ANTHONY ROSE called as a witness on behalf of the Plaintiff, after having first been duly sworn, testified as follows:

Direct examination.

By Mr. Schroder:

Q. Will you state your full name, please, sir?

A. Yes, sir. Frank Anthony Rose.

Q. At the present time where are you located professionally and in what capacity.

A. As President of the University of Alabama, Tuscaloosa, Alabama.

Q. Now, Dr. Rose, will you please, for the benefit of the Court and Jury, state your qualifications, your educational background, and similar information?

A. Well, I am a graduate of Transylvania College in Lexington, Kentucky, Transylvania Seminary, Lexington, Kentucky, and I did graduate work in philosophy in the University of London.

Q. After you graduated from there, what did you do?

A. I served as head of the Department of Religion and Philosophy at Transylvania College. I was minister of a large church at Danville, Kentucky for five years, and at the age of twenty-nine became President of the Transylvania College, Lexington, Kentucky, from which I had graduated, and served there for seven years as President. On September 5th, I will have finished six years as President of University of Alabama.

Q. What literary or other associations do you play a particular part in or a significant part in at the present?

[fol. 1214] A. Well, I am serving as chairman of the Board of Visitors of Eyre University.

Q. Of what?

A. Of Eyre University. I am a member of the Board of Curators of Transylvania College. I am chairman of the Commission on Graduate Study Experiences for the Armed Services, for the American Council on Education. I served on the Board of Trustees of the National Foundation for Infantile Paralysis. I am serving as chairman of the March of Dimes in my sixth year in Alabama. In 1954, I was selected one of the ten outstanding young men in the United States. I was selected in 1955 as the outstanding citizen in Lexington, Kentucky. And last year I was selected as the outstanding citizen of Tuscaloosa, Alabama.

Q. As President of the University of Alabama, Dr. Rose, did you attend a meeting in Birmingham, Alabama, on Sunday, February the 24th, 1963?

A. Yes; I did, sir.

Q. Would you relate, please, who attended that meeting and where it was held?

A. I received a telephone call from Dr. Aderhold three or four days before, Sunday, February the 24th, asking if I could meet him in a confidential meeting with Commissioner Bernie Moore, the Commissioner of the Southeastern Conference, and I asked him what was the purpose of the meeting? And he said, well, for the time being that he would like to say, to discuss an ethical matter. And so

on that morning at 9:00 a.m., I met with Dr. Aderhold. He brought with him Mr. Cook Barwick, and we met with Commissioner Moore.

Q. Will you just briefly summarize so that we can lay the foundation for later work by you what was reported at that meeting, briefly. I don't want to go into everything that [fol. 1215] was said and string it out. Just briefly summarize what was said.

A. Well, Dr. Aderhold and Mr. Barwick told me that—that there had been a telephone conversation or telephone conversations between Coach Bryant and Coach Butts regarding the coming football game to be played in September—around the middle of September.

Q. In 1962?

A. In 1962. They further informed me that there was a man by the name of Burnett that had heard the telephone conversation and that he had stated that Coach Butts had given Coach Bryant some information that would affect the outcome of the football game between the two institutions.

Q. Were you—was that the first knowledge you had of any such incident?

A. Yes, sir; that was the first knowledge.

Q. What did you do after you left that meeting?

A. Well, before I left the meeting I asked him questions, and there were many additional questions raised in my own mind, and then I drove home alone, which is some fifty-four miles away, greatly disturbed and thinking over every facet of the problem. And then when I got home I spent the rest of the afternoon thinking about it and trying to reach some conclusion as to what was the best approach to make to the problem. I came to the conclusion that the best thing to do was to, first, face the person that had been accused, or one of the persons accused, and so I called Coach Bryant and told him to meet me in my office at 7:00 P.M., where we did meet, and I interrogated him and talked with him for a period of about three hours.

[fol. 1216] Q. Was it or not indicated by Coach Bryant that that was the first time he had had any notice of this incident?

A. Yes, sir; it was the first time that he had heard about it. I might say that I think that he was confused by it. He did not recall specific telephone calls at first, and then I kept sharing with him the notes that I had taken while I was talking with Dr. Aderhold and Mr. Barwick and Commissioner Moore, and then he recalled that he had had many telephone conversations with all of the coaches and athletic directors with whom we play. He informed me that this was nothing unusual, that coaches talk about many things before a ball game, and that he had had a great deal of concern about playing the University of Georgia, particularly after we had had the unfortunate experience that we had had with Georgia Tech over the Holt-Granning incident in which Holt, one of our football players, had left the ground on a block, a tackle, and his forearm had caught the Granning boy of Georgia Tech in the jaw and broke his jaw, and we had received such unfavorable publicity about all of this that I had informed him on several occasions that he must use every precaution to see that this type of incident never happened again. Coach Bryant was just as concerned about the bad publicity of the University as I was.

And that he had been informed in a meeting with Coach Butts that there were new interpretations of rules and that he should make himself aware of them, and that he had tried to understand them in previous conversations and could not understand these new interpretations, that he, at a coaches' meeting, a meeting of the coaches of the Southeastern Conference, raised many questions about the new [fol. 1217] interpretations, and this was later confirmed by Commissioner Moore that Coach Bryant asked more questions about the change of rules of the new interpretations than any other—than all the other coaches in the meeting.

Coach Bryant said that he had talked several times with Coach Butts about this personally and on the telephone. He had talked to him about ticket sales, as there were approxi-

mately six to eight hundred tickets that the University of Georgia had not sold, and that he was concerned because there were many people in Alabama that wanted the tickets, but he didn't specifically remember discussing any one thing.

He said he could have talked about investments, Continental Enterprises, in which they had investments, but that he would try to think about it and try to answer as many of the questions as he possibly could.

Q. Did you, after that particular meeting in your office on Sunday evening, February the 24th, talk to Coach Bryant again on several occasions?

A. Yes, sir. I talked to him twice after that before I wrote to Dr. Aderhold.

Q. Between February the 25th and March the 6th, were you in Tuscaloosa all of the time?

A. No, sir. I told Dr. Aderhold that I would be unable to give him an immediate report of my conversation with Coach Bryant, as I had to go to New York City to attend a meeting of the National Foundation for Infantile Paralysis, would be gone most of the week, which I was. I returned on Thursday evening, was tied up in conferences all day Friday, and then had to leave again Monday morning to go to Washington for a meeting of the American Council on [fol. 1218] Education, and I wrote to Dr. Aderhold that morning before I left.

Q. There has been identified here a letter—

Mr. Schroder: May I please—this is not a copy of the exhibit; this is not the one with the exhibit number.

The Court: Don't you have the original?

Mr. Schroder: I will borrow it from Mr. Cody. May I borrow it, Mr. Cody?

Mr. Cody: What's that?

The Court: The original letter.

Mr. Schroder: That is one of the ones we can't find right now; it was in that file.

The Clerk: Is this the one you are talking about?

Mr. Schroder: Yes.

The Clerk: That is Defendant's Exhibit No. 21.
 [fol. 1219] Mr. Schroder: Just mark that here.
 The Clerk: Just say "D-21."

By Mr. Schroder:

Q. There was identified here yesterday a document, Exhibit No. D-21, being a letter to Dr. O. C. Aderhold, dated March 6, 1963, signed Frank A. Rose, from the office of the President, University of Alabama. The original at the moment is not available. I want to ask you some questions about that, if you recognize it as a letter from you to Dr. Aderhold—

A. Yes, sir.

Q. —or a copy of a letter?

A. This is a copy of the letter I dictated to my secretary on the morning of March the 6th, before I left to go to Washington. I had to catch a plane at 8:40 and hurriedly dictated this letter. I did not have time to read it after dictating it. She signed it, was to confer with Coach Bryant and ask him if this was a good interpretation of the conversations that we had. Coach Bryant was out of the City, and she signed it and sent it on to Dr. Aderhold.

Q. All right, sir.

A. It was in this—it was in this letter, as best as I as a layman or a University President, could try to answer some of the questions that Dr. Aderhold and Mr. Cook Barwick had raised at our meeting.

Q. To what extent, if any, are you familiar, Dr. Rose, with the game of football as it is presently being played and the so-called jargon, language of the trade used by coaches?
 [fol. 1220] A. Well, I thought I understood it pretty well until I really began to get into this investigation, but I have never played organized football; I played "sandlot" football as a boy, but I am not very familiar with all of these terms of scientific modern-day football.

Q. To what extent, if any, Dr. Rose, would you say you were familiar with interpretations of football rules that have been issued or promulgated by some national body?

A. I don't know anything about them.

Q. In that letter—well—

Mr. Schroder: May I ask the witness to read the letter, Your Honor?

The Court: No, sir; you can ask him about any portion of the letter. The letter will be in evidence.

Mr. Schroder: All right, sir. It is sort of difficult—

Mr. Cody: Your Honor, I was mistaken. The original of that letter is in another file.

Mr. Schroder: That's better. If I can use one and he use the other.

The Court: All right.

[fol. 1221] By Mr. Schroder:

Q. Dr. Rose, in the letter, being the exhibit you are holding in your hand, you advised Dr. Aderhold you had made an investigation?

A. That is true, yes, sir.

Q. And that you were attempting by this letter to pass on to him the information which you had received in your investigation, including what Coach Paul Bryant had to say to you about conversations that he had had with Coach Butts?

A. Yes. These were the questions that he raised.

Q. In that letter you point out to Coach Aderhold—President Aderhold about Coach Butts' position in the football rules committee—

A. That's right.

Q. —as representative-at-large? In the third paragraph of that letter you state that Coach Butts had discussed these rules changes with Coach Bryant and the two were together at some meeting where Coach Butts told Coach Bryant that—and you say this—“That the University of Georgia had plays that would severely penalize the Alabama team and not only would cause LeRoy Jordan, an Alabama player, to be expelled from the game, but could severely injure one of the offensive players on the Georgia

team." Do you have any explanation or interpretation or whatever you might term it?

A. Mr. Schroder, I was writing this to Dr. Aderhold, the President of the University of Georgia. He had asked specifically about the University of Georgia. This was not limited to the University of Georgia; it could have been to any University we were playing. Paul Bryant was greatly concerned about criticisms that had been made against the University, what had been termed "hardnose" football, [fol. 1222] "dirty" football. Our University had been severely penalized by people who had not acted responsibly. I was trying to reveal to him the purpose of the conversation.

He believed that Coach Butts was a good football statistician, he knew the rules; he served on the National Rules Committee; he knew the new interpretations. And he wanted to find out from him what these changes were, what could affect the result of an incident that would cause one of our football players to be dismissed from a game that would cause another bad ugly incident as it happened with Georgia Tech. But his was not Coach Butts' explanation of what—

Q. Coach who?

A. Coach Butts' explanation to Coach Bryant that Georgia Tech had any set plays or that he was going to reveal any set plays or patterns, but the techniques that were used offensively.

Q. Blocking, you mean?

A. Butt blocking. I remember he named that. I didn't know then and don't know now what that means. Head blocking, I don't know what that means, but these were some of the things that he said that he was concerned about.

Q. That Coach—

A. And I think rightly so, because we had discussed it many times. We did not want to go through a game what we had gone through with Georgia Tech.

Q. In your—in the next paragraph, Paragraph 4 of the letter, you indicate that Coach Bryant asked Coach Butts

to let him know what the plays were, and on September 14, he called Coach Bryant and told him—

A. Well, these were techniques. I think any layman would use the term “plays” and if I hadn’t been told better [fol. 1223] I would use the “plays” and I still forget and use the “plays,” but these were “techniques,” offensive techniques.

Q. There was a question, you say, about another one of the offensive plays of the Georgia team that could seriously penalize the Alabama team and bring additional injury to a player. Coach Bryant asked Coach Butts to check on that play, which he did, and called back on September 16?

A. Well, now, this was my interpretation of what Coach Bryant told me that could have been discussed or he could have talked about in answer to a question that Dr. Aderhold had raised about one of the Georgia players, Mr. Burnett hearing Coach Butts say that one of the Georgia players committed himself too quickly, and I asked him about that, that from my notes, and he said, “I don’t know what that means,” he said, “I’ve never heard about it.” But he said, “It could have been some technique that was being used and some approach of defensive tactics that I could have used.” And this was my interpretation of Coach Bryant’s guess of what they could have been talking about there.

Q. When you—

A. And it was my best answer I could get to the question that Dr. Aderhold raised in my mind when he wanted an answer to it.

Q. What, if anything, does it mean to you with respect to football when someone has said “committed himself too fast”?

A. I don’t know, sir. I can’t tell you. I can make a guess that maybe he started off too fast or he showed what he was going to do rather quickly. I just don’t know. I would have to guess at it.

Q. You then write, “It was then that Coach Bryant [fol. 1224] changed his defense and invited Mr. George

Gardner, Head of the Officials of the Southeastern Conference, to come to Tuscaloosa and interpret for him the legality of his defenses. This Mr. Gardner did the following week. The defenses were changed and Coach Bryant was grateful to Coach Butts for calling this to his attention."

A. I made an error there. It was before the telephone conversations that Coach Bryant had had Mr. George Gardner there with the permission of Commissioner—with the permission of Commissioner Moore to meet with his coaching staff and go over his defenses and to ascertain whether they were legal or illegal.

Q. Under this new interpretation?

A. Under the new interpretations that Coach Butts had told him about. And it was on the basis of his conversations earlier with Coach Butts and in the coaches' meeting the coaches of the Southeastern Conference meeting that he became so concerned about these new interpretations and felt it would serve a good purpose.

Q. Your next paragraph, you quote Coach Bryant as informing you that "Calling this to his attention may have favored the University of Alabama football team, but that he doubts it seriously. He did say that it prevented him from using illegal plays after the new change of rules."

A. Yes, sir; he said that he didn't know. Well, I asked him if he felt that any of these rule interpretations, calling his attention to the changes or anything else that was said, could have affected the outcome of the ball game, and he said that he doubted it very seriously, that he received no specific information or any specific knowledge that would [fol. 1225] affect the score or the outcome of the ball game between the University of Alabama and the University of Georgia.

Q. The same information that he says was told him by Coach Butts was told to, I think you said, a whole meeting of the coaches on another occasion in Birmingham?

A. Yes, sir; a meeting of the coaches of the Southeastern Conference, I believe.

Q. And Coach Butts was the chief speaker at that meeting?

A. Yes, sir.

Q. Did you ever receive a reply to your letter from Dr. Aderhold?

A. No, sir; I did not. And when we parted Commissioner Moore's office—

Q. I will take that back from you.

A. —each one of us agree, we would conduct our own private confidential investigation, and that we would share with one another within the next few days as much information as we could get, and I never heard from Dr. Aderhold again until I called him several weeks later. He never acknowledged my letter. He did not inform me that the letter had been subpoenaed. This letter was written hurriedly. It was not written as a legal document to be used in any court case. It was not verified. It was not read after it was dictated, and I think substantially if you read that total letter and take it in its total context, you will find I conveyed to Dr. Aderhold that on the preliminary investigation that I had made, in talking with Coach Bryant, talking to his banker, talking to two of his friends—

The Court: To his banker?

[fol. 1226] The Witness: To his banker.

A. (By the witness) —talking to two of his friends, talking to two of my vice-presidents and business manager of athletics, that in my estimation the whole thing, based on the notes and the information that they had heard, that they had received from Mr. Burnett was overplayed, and I still think that that letter, taken in its full context, conveyed just that.

Mr. Schroder: You may examine.

Cross examination.

By Mr. Cody:

Q. Dr. Rose, would you mind giving me your signature on this piece of paper?

A. Yes, sir.

Q. You want to step down here to the desk?

A. You want me to sit down?

Q. Doesn't matter, just whatever you want to do. Thank you.

Mr. Cody: Will you identify this as Defendant's Exhibit—I believe it will be 25 or 26, somewhere along there.

The Clerk: Defendant's Exhibit No. 27 for identification is a signature of Dr. Rose.

[fol. 1227] (Whereupon the above paper was marked for identification only as Defendant's Exhibit No. 27.)

By Mr. Cody:

Q. Now, Dr. Rose, when Mr. Schroder read you the first paragraph of this letter, he read the language as follows, as just making an investigation. You mind if I read you the entire paragraph?

A. Be fine.

Mr. Schroder: May the witness have a copy in his hand?

The Court: Do you have an extra copy? Does someone have an extra copy?

Mr. Cody: Yes, sir.

By Mr. Cody:

Q. "I have spent a great deal of time investigating thoroughly the questions—," now, when Mr. Schroder read you that paragraph, he left out the word "thoroughly," didn't he?

Mr. Schroder: If the Court please, I didn't indicate I was reading that letter verbatim. I think Your Honor told me it couldn't be read.

The Court: That's right. Well, read the letter to him. Read the whole paragraph and ask him did he write that.

[fol. 1228] By Mr. Cody:

Q. "I have spent a great deal of time investigating thoroughly the questions that were raised during our meeting in Birmingham and have talked with Coach Bryant at least on two occasions. As best as I can ascertain, this is the information that I have received." Now, let's talk about the first paragraph just a minute.

A. All right, sir.

Q. Was that paragraph written as you dictated it?

A. Yes, sir; that is; as best I recall that is the paragraph that I dictated.

Examination.

By the Court:

Q. You mean you didn't dictate all the letter?

A. Sir?

Q. You didn't dictate all the letter?

A. I dictated all the letter, yes, sir.

Cross examination (continued).

By Mr. Cody:

Q. Am I to understand your testimony, Dr. Rose, that you did not read the letter after you dictated it?

A. No, sir; I did not.

Q. Nor did you sign it?

A. No, sir. I had to catch a plane for Washington.

Q. Who did sign it?

A. My secretary.

Q. Who is your secretary?

A. Mrs. Stanley Park.

Q. Let's pass to the second paragraph.

"Coach Butts has been serving on the football rules committee, [fol.1229] and at a meeting held last summer of the Rules Committee the defenses used by Coach Bryant, L. S. U. and Tennessee were discussed at length and new rules were drawn up that would severely penalize these three teams unless the defenses were changed—" you've got "changes"—"particularly on certain plays." Now, is that written as you dictated it?

A. I would say that it is, because my secretary usually does a pretty good job. I couldn't swear to it, sir, but I think I did dictate that.

Examination.

By the Court:

Q. Is that what you intended to convey?

A. No, sir. Now, I know it is not what I intended to convey because I have gotten a great deal more information about it, and it wasn't the defenses used by L. S. U. and Tennessee and Alabama were discussed. All defenses used by universities were discussed, but it was reported that the officials were specifically going to watch these three institutions, the University of Alabama, L. S. U., and Tennessee, to see that these new interpretations were carried out and there was no violation of the rules.

Q. From whom did you acquire that information?

A. Well, Coach Bryant gave it to me after he received a copy of this letter.

Cross examination (continued).

By Mr. Cody:

Q. Now, let's pass on to the third paragraph.

"Coach Butts had discussed this with Coach Bryant and [fol.1230] the two were together at some meeting where

Coach Butts told Coach Bryant that the University of Georgia had plays that would severely penalize the Alabama team and not only would cause LeRoy Jordan, an Alabama player, to be expelled from the game, but could severely injure one of the offensive players on the Georgia team."

Now, I believe you stated that is incorrectly transcribed or what explanation is it you make of that?

A. Mr. Cody, what I said, I was trying to answer for Dr. Aderhold this—this commitment or quick commitment that he had raised as a question that Mr. Burnett had purportedly—was reported to have given him, and I was speaking to the President of the University of Georgia, singling out his institution, but I could have been talking about any institution in the Southeastern Conference or anywhere else. I wasn't talking about any specific play of the University of Georgia football team as given to them by their coach.

Q. Well, were you undertaking here to quote Coach Bryant?

A. No, sir. Let me go further and say that in my discussions with him he talked about a lot of things that they could have been talking about, and tried—tried to explain to me these new interpretations which he didn't quite understand, himself. He was puzzled by them, and ten days later I wrote the letter after talking with Coach Bryant, and I tried, in my layman's language, to reveal what Coach Bryant had not said specifically to me, but what, in a general discussion of what their discussion could have been about; wasn't even sure of that. I was trying to reveal to Dr. Aderhold my interpretation of it.

Q. Dr. Rose, do you know enough about football to know [fol. 1231] that if one team can execute a play, or formation in such a fashion as to cause the opponent to be penalized, that that would be beneficial to the team that had the ball?

A. Yes, sir; I think I can recall one where it would be. If the team played like they were going to snap the ball

and didn't, and caused the team to get off-sides and got them a five yard penalty, I can understand that.

Q. Sometimes a five-yard penalty can mean the difference between a win and a loss, can't it?

A. Yes, sir; I'm not arguing that with you.

Q. In looking at these notes that you observed that Mr. Burnett had made—I assume they showed you these notes?

A. No, sir; I have never seen them.

Q. They didn't bring them to Birmingham?

A. I can't answer that, but they weren't shown to me.

Q. You have seen them since?

A. I saw them in the Saturday Evening Post article.

Q. What did you see, a photostatic copy in the Post article?

A. I don't recall. I remember seeing it there; I guess it was a photostatic copy.

Q. Do you know enough about the game of football to know that on a particular play the ball is snapped on a count of 3, 4, 5, or 6, in order to try to draw the opposing team off-sides?

A. No, sir; I don't; I don't know that much about it.

Q. Let's pass on to this fourth paragraph, Dr. Rose. First, let me ask you one other question about Paragraph 3. Did Coach Bryant say anything to you about a description of the play that would injure a Georgia player?

A. He tried to explain some descriptions of plays, not of Georgia, but just plays in general. Mr. Cody, after he finished I still didn't understand what he was talking about.

Q. Well, let's pass on to the fourth paragraph.

"Coach Bryant asked Coach Butts to let him know what the plays were, and on September 14, he called Coach Bryant and told him."

Did you get that information from Coach Bryant?

A. He said that he—this is not specifically what Coach Bryant said. He said that he had talked with Coach Butts about some of these rule interpretations, some of these

techniques, offensive techniques, defensive techniques, and that he would like to know more about them because he did not understand the new interpretations as they were.

Q. But you say here, Dr. Rose, "Coach Bryant asked Coach Butts to let him know what the plays were."

A. Yes, but this had to do with these new techniques, or the violations that could be committed with these new techniques.

Examination.

By the Court:

Q. Are you referring to defensive techniques? You are talking about Jordan?

A. I was talking about—Coach Bryant says that he thinks that he is one of the best defensive coaches in America. He says he thinks that Coach Butts was one of the best offensive coaches; and over the years he had [fol. 1233] talked with Coach Butts about offensive techniques, of patterns, that they had even shared—that he had given Coach Butts, over the years, some defensive techniques, and little points about defenses, and that he had gotten from Coach Butts, just as he had gotten from Coach Wilkinson, he said at Oklahoma, and Coach Royal at Texas, points, offensive points that were helpful to him and his boys.

Q. What was your understanding of why Mr. Jordan could be penalized and relieved from the game on a defensive play? Is that what you are talking about?

A. If an offensive player was injured, just like—

Q. Yes, sir.

A. —the Granning boy, you see, and Darwin Holt, and he said if he ever lost LeRoy Jordan in a ball game, he would probably lose the ball game, and I think we would agree with that.

Cross examination (continued).

By Mr. Cody:

Q. In other words, if Jordan had been put out of the game, it would help Georgia?

A. Not necessarily Georgia; any school.

Q. Well, Georgia included?

A. Well, yes; it could be.

Q. If they were talking—if they were talking on September the 14th—

Mr. Schroder: If the Court please, the Post article says it was September the 14th, but I think Mr. Burnett says it was September 13th.

[fol. 1234] Mr. Cody: I think we can agree on that.

The Court: Well, whatever it was.

Mr. Cody: There is some confusion.

By Mr. Cody:

Q. Dr. Rose, if they were having this conversation on September the 13th, and the Alabama game was the upcoming game for the 22nd, the opening game of the season, does it seem reasonable to you that this discussion involved some subsequent game of Alabama?

A. No, sir; it doesn't, to me, not taking all of the facts and all of the information that I now have, I don't think so.

Q. Now, let's—let's pass to the second sentence in that fourth paragraph.

“There was a question about another one of the offensive plays of the Georgia team that could seriously penalize the Alabama team and bring on additional injury to a player.”

Do you recall what Coach Bryant was talking about when he gave you that information?

A. No, sir; and I didn't understand it then.

Q. Do you understand it now?

A. No, sir; I don't. And I'd be afraid to try to explain it, but it had—it had something to do with—with some kind of tackling technique. Now, I don't know whether it was butting with the head, or just—or leaving the ground, or whatever it was, he tried to explain it. He went over and [fol. 1235] over it again, and I still couldn't explain it, and I still don't know it now. I did see somebody try to explain it on television, a television program later, and it made sense to me then, and I can't recall it.

Q. Wouldn't it have been a lot clearer for you to have let Coach Bryant dictate this letter?

A. It would have been much better, yes, sir.

The Marshal: Let's have order, please.

By Mr. Cody:

Q. The last sentence in Paragraph 4.

"Coach Bryant asked Coach Butts to check on that play, which he did, and called back on September 16." Did you get that information from Coach Bryant?

A. Coach Bryant said to me that there was a particular point of play, not just the University of Georgia's play, but a play that they had talked about and discussed. He said he didn't know where he saw the play first, that it could have been in a clinic, but he knew that Coach Butts, over a period of years, had used it, and he wanted to know about that particular point on that play. Coach Butts didn't recall it, but was going to try to think about it and would try to get him additional information on what a man did here or did there, but it wasn't—this wasn't a University of Georgia play.

Q. Give me the date again you were talking with Coach Bryant again on this subject?

A. February the 24th, the night that I—

Q. In your office on the campus at Tuscaloosa?

A. Yes, sir.

Q. Does it seem inconsistent to you, Dr. Rose, that Coach [fol. 1236] Bryant would, at that time, have told you that

he did call Coach Butts on September 16, and yet when we undertook to take his deposition, or he later has stated that he remembers nothing about that call; does that seem inconsistent to you?

A. Coach Bryant told me that night that he didn't remember calling Coach Butts back.

Q. Well, where did you get—where did you get the date September 16th, and who from?

A. He told me that he could have called him back, and then I checked our records and there was a call to Athens, and I asked him if he could have made that call, and he still couldn't remember whether he made that call or not.

Q. Well, then, the last sentence in Paragraph 4 is a misstatement of fact?

A. On the basis of what I knew then, I didn't think it was, but if he—if he did not call back, somebody called Athens from the University—from Tuscaloosa on September 16.

Q. Are you aware of the fact, Dr. Rose, that when I took your deposition in Birmingham some few months ago, that you testified that you didn't find out through the telephone records that there was a September 16 call until long after this letter was written?

Mr. Schroder: Let's see where that is in the deposition.

By Mr. Cody:

Q. Do you remember making a statement to that effect?

A. No, sir; I don't remember it.

[fol. 1237] The Court: Just a moment; just a moment.

Mr. Schroder: I want a point of order here.

The Court: Where is the deposition?

The Witness: I have one here.

By Mr. Cody:

Q. Well, may I ask you when you did find out for the first time that there was a call?

A. I found out before I wrote the letter because I didn't even know about the dates; in fact, I am not sure it is the 16th or 15th. You keep saying 14th, and then they were supposed to have called back two days later, that would have been the 16th, and then Mr. Schroder said 13th; if it had been two days later it would have been the 15th.

The Court: I think, Doctor, there's been confusion about whether the first call occurred either on the 13th or 14th. I am right on this, am I not?

Mr. Cody: It's really the 13th and 16th. We are not in any disagreement on that.

The Witness: You have been trying to confuse me on those two days.

[fol. 1238] By Mr. Cody:

Q. I'm not going to try to confuse you. Let me ask you this question, Dr. Rose. When it says in this letter that "Coach Bryant asked Coach Butts to check on that play, which he did, and call back on September 16," were you—were you undertaking to convey the statement that Coach Butts called back on September the 16th, or Coach Bryant—that is the last sentence in Paragraph 4.

A. That at that time, Mr. Cody, on checking the telephone calls, there was a call from Tuscaloosa to Athens. I surmised that Coach Bryant had called back Coach Butts, but Coach Butts and Coach Bryant had never told me that he had called back; that he didn't remember it but I surmised that he had, because there was a call from Tuscaloosa to Athens.

Q. Now, let's pass on to the fifth paragraph.

A. All right, sir.

Q. "It was then that Coach Bryant changed his defenses . . ." I am not finishing that sentence. I want to first ask you if Coach Bryant told you that he changed his defenses?

A. Coach Bryant told me that he brought his players in—not his players, his coaching staff, and that they went

over and over these new interpretations to try to see how much understanding they all could get of them, and that they would try to carry them out as best they could understand them, but he said they could not get agreement of understanding on it, and it was then that he had Mr. Gardner but he had had Mr. Gardner before the call.

Q. I am going to get to Mr. Gardner in just a minute. But he did tell you he changed his defenses?

[fol. 1239] A. That he changed his techniques; yes, sir; not his defenses. It would be his techniques.

Q. The word "defenses" is error?

A. Yes, sir.

The Court: What's in the letter, "defenses" or "techniques"?

Mr. Cody: "Defenses."

The Court: Oh, yes.

By Mr. Cody:

Q. Now, reading on in the same sentence, "... and invited Mr. George Gardner, Head of the Officials of the Southeastern Conference, to come to Tuscaloosa and interpret for him the legality of his defenses." And now you say that Mr. Gardner did not come there thereafter?

A. He came before.

Q. He had already been there?

A. Yes, sir; and this—Coach Bryant didn't know—didn't know whether he had been before or after the telephone call.

Q. But his particular statement, too, is an error?

A. Yes, sir.

Q. Also the following sentence, which is along the same line: "This Mr. Gardner did the following week." And then, the next sentence in that fifth paragraph: "The defenses were changed and Coach Bryant was grateful to Coach Butts for calling this to his attention."

[fol. 1240] A. The techniques. It says "defenses," but it was techniques.

Q. Well, that, too, is an error; right?

A. Yes, sir; but I am not a modern-day football coach.

Q. From whom did that information come that is contained in that sentence?

A. I asked him if he—if, after meeting with Mr. George Gardner and his discussions with Coach Butts on rule interpretation and rule changes, if he had learned anything that changed any of his coaching or any of the techniques of his team, and he said that he had learned nothing that made a difference.

Q. Let's turn over to the next page. This is the sixth paragraph and the first sentence.

"Coach Bryant informs me that calling this to his attention may have favored the University of Alabama football team, but that he doubts it seriously." Is that a quotation from Coach Bryant, a statement that he made to you?

A. I asked Coach Bryant if he felt in his discussions with Coach Butts that he received any knowledge or information that would affect the outcome of the game, and he said, no, but that any time that you learn something from another coach, or in talking to another coach that would keep you from getting penalized, of course, it favored them, but he doubted seriously that if anything that he learned from Coach Butts really made a great deal of difference to the outcome of that particular game.

Q. Dr. Rose, when you use the term "outcome," are you talking about the result of the game?

A. Yes, sir.

Q. That is, win or a loss?

A. Yes, sir.

[fol. 1241] Q. Did you ever doubt in your mind, before that game, that Alabama would lose? May I put it another way, if that confuses you.

A. No, sir; it doesn't confuse me.

Q. Did you know that Alabama—

Mr. Schroder: Wait a minute, whoa; whoa.

The Court: Let him answer.

A. (By the witness) I didn't know how the game was going to come out. It was the first game of the season, and I just didn't know, but after the game was over I was surprised that the score wasn't bigger than it was.

The Marshal: Let's have order, please.

A. But I didn't know before the game how it would be.

Q. You used the expression "first game of the season"; why did you use that expression as you did?

A. Sir?

Q. Why do you use the expression you did about it being the first game of the season? Is that because you know so little about the opponent?

A. Yes, sir; and our own team.

Q. But you did know that Alabama had a much better team than Georgia?

A. I was much more impressed with it after the game.

Q. What about it before?

A. No, sir; I thought we had a pretty good team, but I didn't know what Georgia had.

[fol. 1242] Q. Didn't the Birmingham papers and the Tuscaloosa paper state what the advantage was, or what the odds were? Don't you always read that?

A. No, sir; and I have a coach that always thinks he's going to lose every ball game, and he tries to keep me thinking that. I had no idea.

Q. Well, let, then, get back to this question. This sentence I read you, the first sentence there in the sixth paragraph, that "Coach Bryant informed me that calling this to his attention may have favored the University of Alabama . . ." is that your undertaking to quote something in this letter that Coach Bryant told you?

A. In answer to my question that if finding out these new rules, the interpretations, and in his conversation with Coach Butts, did he specifically get anything, and he said he didn't think so. He said any time you talk to anybody, or you read what's been written in the paper, or just in many ways, you pick up information. He said some of it

is good, some of it is bad, but he said it may have favored. But I don't know.

Q. But doesn't it seem inconsistent to you now, Dr. Rose, that since you have found out that George Gardner had been in Tuscaloosa the week before and had pointed out these so-called rule changes, doesn't that statement seem inconsistent to you?

A. No, sir; it doesn't, not in its full context.

Q. When you were having this conference with Coach Bryant, this three-hour conference, did he tell you that time George Gardner had been to Tuscaloosa?

A. Yes, sir.

Q. You know who George Gardner is, don't you?

A. Yes, sir; I know who he is.

[fol. 1243] Q. For the record, state—

The Court: Who is George Gardner?

By Mr. Cody:

Q. State who he is?

A. He is the Commissioner of the Southeastern Conference Officials. I believe that is his title.

Examination.

By the Court:

Q. Would he be head of all the referees and umpires?

A. I don't know whether he would be head of them, but he would be responsible for assigning them and getting them to this place to call this football game, and that one, and then evaluating their work at the end of the year.

Q. In other words, he would be the final authority on interpreting the rules, insofar as the officials enforcing them; is that correct?

Mr. Schroder: I think we can stipulate that Mr. Gardner is really in charge of all of these, Your Honor indicated, umpires, referees, headliners.

Mr. Cody: That's right.

The Court: So Mr. Gardner would be in charge of the [fol. 1244] referees and instruct them as to what penalty—when to enforce a particular penalty.

Mr. Schroder: That's correct, sir; he teaches them what to watch for.

The Court: Insofar as the Southeastern Conference is concerned?

Mr. Schroder: That is correct.

Cross examination (continued).

By Mr. Cody:

Q. I have one more sentence I'd like to read to you, Dr. Rose, in that same paragraph. "He did say . . ."—who is "he" that we are talking about?

A. Coach Bryant.

Q. "He did say that it prevented him from using illegal plays after the new change of rules." Is that what Coach Bryant told you?

A. He said that after the visit of Mr. Gardner and after his conversation with Coach Butts that he understood some of these rule changes and interpretations, and that it did prevent him from using illegal plays.

Q. Does it seem inconsistent to you, Dr. Rose, that Coach Bryant, in response to your inquiry on this particular date, could have given you all this information and yet subsequently does not remember any conversation about it at all with Coach Butts?

A. It doesn't in light of my conversations with him for [fol. 1245] that three-hour period, Mr. Cody, because: one, I think he was kind of shocked at the specifics of the thing, or the two telephone conversations, because there had been numerous personal conversations, telephone conversations with other coaches, discussing some of the same problems. He had called and talked with Coach Darrell Royal in Texas, whom we do not play during the regular season, but played in the Orange Bowl game. And there were others that he named, and there was a great deal of information about the whole thing that he just didn't specifi-

cally remember, but said that this is what we could have—could have been talking about, but I don't remember. When I checked the files a call had been made back.

Q. Had you checked the files before you talked to Coach Bryant?

A. No, sir.

Q. To confirm the telephone call?

A. Sir?

Q. To confirm the telephone call of September 16?

A. No, sir; no, sir; I had not.

* * * * *

Cross examination (continued).

By Mr. Cody:

Q. Dr. Rose, on Page 20 of your deposition, which was taken in Birmingham several months ago, do you recall making this statement that is at the bottom of the page: "He—" meaning Coach Bryant—

Mr. Schroder: Could I have this copy?
[fol. 1246] The Court: Don't stand behind him. Give him the original.

By Mr. Cody:

Q. "He—" meaning Coach Bryant "—said that it wasn't unusual for coaches to talk about many things previous to a football game." Did you know when he told you that that Wallace Butts was not the coach at Georgia?

A. Yes, sir.

Q. You knew he had not been coach since 1960?

A. I knew he was athletic director, and Coach Bryant is athletic director, and they talk about football too.

Q. But he is also the coach?

A. Yes, sir.

Q. He is the head coach?

A. If he were going to talk to anyone about football tickets, he'd talk to Coach Butts.

Q. Is that what he told you they were talking about, tickets?

A. He said they could have been talking about tickets.

Q. When you prepared this letter of March the 6th, had you consulted with any of your executive staff of the University?

A. Yes, sir.

Q. One of your vice-presidents?

A. One of my vice-presidents, my present Director of Alumni Affairs who used to be Business Manager of Athletics and Ticket Manager. Those were the ones with whom I talked.

Q. Do you know if either one of those gentlemen had ever played football?

[fol. 1247] A. No, sir; I don't believe they had. They may have; I don't know.

Q. On Page 30 of this same deposition, I'd like to read you one question and answer that is recorded here in the middle of the page; these lines are not numbered: "Dr. Rose, was the information obtained by you and counsel communicated in this letter of March 6 obtained from Coach Bryant? Answer: "Yes." Is that a correct transcript of your testimony at that time?

A. Yes, sir. But—but limited, because, as I said, he recalled many things that they could have been talking about, and that my letter was my best layman's interpretation, Mr. Cody, of the many things that Coach Bryant said they could have been talking about.

Q. But such technical information as is contained in your letter of March 6—

A. That technical information in my letter is not worth five cents as I see it now, because I did a very poor job being a technician on modern football. But I did the best I could do to convey to Dr. Aderhold—

Q. I am not arguing about that. But the information contained in that letter, you did undertake to explain, whether it is techniques or rules or what-not, you did obtain it from Coach Bryant?

A. It is my—it is my interpretation of what I thought Coach Bryant was trying to tell me.

Q. I see. You referred a moment ago in your direct examination by Mr. Schroder to the Granning incident. What was that you were talking about, Dr. Rose?

A. Mr. Cody, I explained it that in our football game with Georgia Tech in 1961, that on a play in which there was a kick, and Granning was receiving the kick, that [fol. 1248] Darwin Holt came in fast and left the ground and hit Granning, and Granning ducked his head down just as he hit, and it broke his jaw. And this was a terrible thing to happen, but these things do happen in football. But the University of Alabama, the total University, was severely criticized by a few members of the press, and particularly one here in Georgia, in which, in later months, they called our University a football factory, a University that the coach ran, a University that was interested only in football, and I will tell you it was terrible, because for a University to spend thirty million dollars a year on academics and less than two hundred thousand dollars a year on athletics to be termed as that, we did not want anything else to happen with any other institution that would create another incident like it.

Q. Now, turn to Page 45 just a minute, Dr. Rose, which—

Mr. Schroder: Excuse me, Mr. Cody, I didn't get the page.

Mr. Cody: 45. Just below the middle of the page.

By Mr. Cody:

Q. —which is referring again to the conference you had with Dr. Aderhold in Birmingham when Bernie Moore was present. I want to read you one question and answer and see if that is a correct transcript of your evidence at that time. "What specifically were these questions that he had raised?" meaning Dr. Aderhold; Answer: "As to whether Coach Butts had given Coach Griffith—" I don't know why it was "Griffith", it should have been "Bryant", I assume—

[fol. 1249] “detailed plays and information about the players of the University of Georgia to Coach Bryant and whether they had helped him in the ball game.” Is that a correct transcript?

A. Yes, sir.

Q. With the exception of the clerical error the Reporter made about Griffith?

A. There is no clerical error, Mr. Cody. Read it again.

Q. “As to whether Coach Butts had given Coach Griffith detailed plays—” should have been “Bryant”. It mentions Bryant in the following line.

A. No; Had given plays of Griffith to Coach Bryant.

Q. Then there should be an apostrophe after Coach Griffith?

A. That’s right.

Q. Dr. Rose, on Page 51—I just have one more excerpt from this record to read to you—up at the top of the page, after discussing this so-called exchanging telephone conversations, Question: “What did he say then?” meaning Coach Bryant. Answer: “He said that he had made a telephone call to Athens and that he was pretty sure that he had called and talked to him about—” and then there is an interruption—“What did he say?” Answer: “That he had called him to talk to him further about the enforcement of the rules.” I won’t read the balance; if you want me to read the balance I will, but the question I want to read you now, Dr. Rose, when you were giving that testimony, were you sure that Coach Bryant had told you that he had called Coach Butts on that September 16?

A. No, sir. When we checked and found in the files that there had been a call from Tuscaloosa to Athens, Coach [fol. 1250] Bryant checked with other members of his staff to see if they had made the call, and he hadn’t ascertained that they had, and so it was that he said that he probably called to Athens himself to talk to him further about the discussion of rules and interpretations as they discussed them before.

Q. Dr. Rose, would I offend you in any way if I asked you to give me one more of your signature? Here is my pen, if you want it.

A. Let me tell you this. She signs all our government contracts. She was on vacation and I signed some, and the government sent it back and said, "This is not the President's signature."

The Court: Let's just go ahead and sign it.

By Mr. Cody:

Q. Thank you. Do you remember, following that deposition that was taken in Birmingham, that you sent me—

Mr. Cody: Will you identify that, please?

The Clerk: Defendant's Exhibit No. 28 for identification is a signature of Frank A. Rose.

(Whereupon above document was marked for identification only as Defendant's Exhibit No. 28.)

[fol. 1251] By Mr. Cody:

Q. —that you sent me a telephone record which we agreed at that time would be sent?

A. Yes, sir.

Q. Is this the letter with which you transmitted that record?

A. Yes, sir.

Q. Did you sign that?

A. No, sir.

Q. Who signed it?

A. My secretary.

Mr. Cody: Will you identify this, please?

The Clerk: Yes, sir.

Mr. Cody: 29?

The Clerk: Yes, sir. Defendant's Exhibit No. 29 for identification is a letter dated June 19, 1963 to W. B. Cody from Frank A. Rose.

(Whereupon above document was marked for identification only as Defendant's Exhibit No. 29.)

By Mr. Cody:

Q. Dr. Rose, I have subpoenaed several letters from the Georgia School of Technology which you have written to one of the officials there that have been produced this morning in response to that subpoena. The first one that I'd [fol. 1252] like to call your attention to is a letter of November the 29th, 1961.

Mr. Schroder: Your Honor, I haven't seen any of these documents.

The Court: All right, sir, let Mr. Schroder see them.

Mr. Cody: I believe I will wait and get them all identified. Will you identify these three exhibits?

The Clerk: Yes, sir.

Mr. Cody: It doesn't matter in which order.

The Clerk: All right. Defendant's Exhibit No. 30 for identification is a letter dated November the 29th, 1961, to William B. Hartsfield from Frank A. Rose.

(Whereupon above document was marked for identification only as Defendant's Exhibit No. 30.)

The Clerk: Defendant's Exhibit No. 31 for identification is a letter dated February 20, 1963, to Dr. Edwin D. Harrison from Frank A. Rose.

[fol. 1253] (Whereupon above document was marked for identification only as Defendant's Exhibit No. 31.)

The Clerk: Defendant's Exhibit No. 32 for identification is a letter dated December 18, 1962, to Dr. Edwin D. Harrison from Frank A. Rose.

(Whereupon above document was marked for identification only as Defendant's Exhibit No. 32.)

By Mr. Cody:

Q. Dr. Rose, I show you the Defendant's Exhibit No. 30, this particular exhibit being a photostatic copy, but I'd like to ask you if that is your signature? Did you sign the original of that letter?

A. No, sir; that is not my signature.

Q. Is that one your secretary signed?

A. That is my secretary, Mrs. Park.

Q. Now, Exhibit No. 32, will you state whether or not this is a letter to Dr. Edwin D. Harrison, President of Georgia Tech? Did you sign that letter?

A. That is my secretary.

Q. Same lady?

A. Yes, sir.

Q. Now, I will ask you the same question about Exhibit No. 31?

A. That is my secretary.

Q. Now, on this last exhibit which I have shown you, you note that this seems to be a personal letter; you called him "Ed"?

A. Yes, sir.

[fol. 1254] Q. Are you in the habit of letting your secretary sign personal letter of that type?

A. Yes, sir.

Q. Dr. Rose, the pen which I used a moment ago is not the type pen I intended to use. Would I offend you if I asked you to give me one more signature?

The Marshal: Let's have order, please.

Mr. Cody: Thank you. Will you identify that?

The Clerk: It will be Defendant's Exhibit No. 33.

(Whereupon above document was marked for identification only as Defendant's Exhibit No. 33.)

Mr. Cody: I believe that's all we have.