

Examination.

By the Court:

Q. Doctor, did you—did you consider this matter of great importance, the letter you were writing to Dr. Adershold?

A. The accusation, Judge, I think was one of the most disturbing things I have had to happen to me in thirteen years of college administration. I don't think I have ever had anything to upset me more.

Q. Is it your testimony—is it your testimony or is it not that you dictated the letter and your secretary signed it [fol. 1255] before you saw the letter written? Is that right?

A. Yes, sir. And she was to check it with Coach Bryant to see if this was a good representation of our discussion.

Q. Did she check it?

A. No, sir. He was out of town, and I had told her to get it off that day, and she went ahead and sent it.

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Redirect examination.

By Mr. Schroder:

Q. As soon as you—did you subsequently call Dr. Adershold on the telephone and point out to him the fact that this letter was inaccurate?

A. That's right; yes, sir.

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JAMES WALLACE BUTTS, having resumed the stand, testified further as follows:

Redirect examination.

By Mr. Schroder:

Q. Coach Butts, you heard the testimony introduced here by the Saturday Evening Post yesterday and today given

by members of the Athletic Board, certain members of the Athletic Board?

A. Yes, sir.

Q. Now, Mr. Butts, I want to ask you, in spite of whatever they may think or say, in your testimony before this [fol. 1256] Court and Jury that you have given in this case, is that or not the truth?

A. That is the truth, sir.

Q. As an expert in the field of coaching, is there any play that any offensive team could have that would severely penalize a defensive team and cause a defensive player to be expelled from the game?

A. No, sir; and may I explain briefly?

Q. Yes, sir.

A. If a play was run around the right end or a play was run around the left end, if the fullback ran over right guard, if the left halfback ran over the tackle, it would not make any difference on any one of those plays. A defensive man might violate the techniques of defensive football by piling on, hitting with his rear, butting him with his head, but there is no particular play in football that would cause any such violation. I would like to add, sir, that it is possible that by changing the count a defensive player or players might be drawn off sides, and in that event it would cause a penalty to the defense.

Q. Would the defensive man who went off side be put out of the game?

A. No, sir; it would cost him five yards.

Mr. Schroder: All right, sir; he's with you.

Mr. Cody: We have nothing further.

Mr. Schroder: You may come down.

[fol. 1257] Examination.

By the Court:

Q. Is there such—Coach Butts, may I ask this question. This is on football and I am certainly no authority.

A. Yes, sir; Your Honor.

Q. Is there such a play as the offensive team drawing the defensive team off sides and getting a penalty?

A. Your Honor, I explained that by changing the count or by some guard or tackle moving, it could draw the defense off tackle.

Mr. Schroder: Off side.

By the Court:

Q. And the opposite team would be the one penalized? There is no such thing as an illegal formation on defense, as long as you have eleven men on the field and not off side, it is not illegal, is it?

A. Your Honor, you could put one on the line of scrimmage and eleven back in the seats if you wanted to.

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SUMMATION TO JURY ON BEHALF OF DEFENDANT

Mr. Cody: Gentlemen of the Jury, representing the defendant in this case, I want to sincerely speak to you this morning with some mixed emotion. I say "emotion" because in the first place this case involves several parties, the first one, the plaintiff in this case who, for many years, enjoyed the most that could be obtained out of his profession. He arrived at or near the top of that profession, and he did that with the help and the assistance and the cooperation of the Athletic Board and the faculty of the University of Georgia over a period of many years, and he was well compensated for his services. He was a man who was held in the esteem and confidence of those University officials.

The other party involved, one other party involved is the defendant in this case, the Saturday Evening Post, which is a publication that is the oldest in this Country, two hundred thirty-six years, I believe, continuous publication. It started as far back, I believe, as the days of Benjamin Franklin, and I assume that it has been received with public acceptance.

But the third party involved in this case, as I view it, is the University of Georgia, the oldest State educational institution in the United States, started even prior to the adoption of the Federal Constitution. The University of Georgia has trained many people in this State to some extent, Mr. Schroder as well as myself, trained us to do the job which we are trying to do in this case, and, if I may say so, it trained the Judge who is in charge of the trial of this case.

What disturbs me most is that a man should reach the top of the profession about which I am talking, and then at some point in his life come to a change which embarrasses himself and his University and the people who he was employed to train.

I would like to read one small portion of an instrument [fol. 1259] which has been introduced in evidence which I believe, in just a few words, expresses the responsibility that falls upon a football coach or, on the other hand, an athletic director who is in charge of the training of the youth of our State.

My days at the University go back to those of Chancellor Barrow, David C. Barrow, a gentleman who never ceased to talk about the fact that the greatest asset of our State is its youth, and when you fail to train them properly, you have slipped a cog.

And, basically, that is one unfortunate and unpleasant experience that we, as lawyers and you as jurors, have to face in this case, because something has failed.

The University of Georgia is a member of the Southeastern Conference, and its athletic program is about the same as any other large university, and a great deal of money is spent on it because an athletic program is just as important in the education of our youth as the academic portion of that education. In that connection the Southeastern Conference has adopted the rules and the enforcement program, the Constitution and Bylaws of the National Collegiate Association, which is an organization designed

to keep collegiate athletics on a high plain and commensurate with the standards which you are trying to establish in the training of these youthful people.

Here is what this says: "Individuals employed by the Association"—meaning the Athletic Association—"employed by or associated with member institutions for the administration, the conduct of coaching of intercollegiate [fol. 1260] athletics are in the final analysis teachers of young people. Their responsibility is an affirmative one, and they must do more than avoid improper conduct or questionable acts. Their own moral values must be so certain and positive that those younger and more pliable will be influenced by fine example. Much more is expected of them than of the less critically placed citizen."

From that point I would like to pick up just a minute one or two things and then I will briefly discuss the one or two law points involved in this case. I want to tell you what happened to the plaintiff in this case, because it is important in leading up to what subsequently developed into what I think to be a critical event.

This trouble started back in 1960, and I will briefly run down a few points in this evidence in order to illustrate to you what it meant to this plaintiff and to our University. Back in 1960, and this evidence comes from the best friend that Wallace Butts ever had, Bill Hartman, the best and the closest friend he ever had, because he was the intermediary who stood between Coach Butts and these graduates of the University of Georgia and in an effort to then straighten out this unpleasant situation, and if you remember the evidence you will recall that he stated that in 1960 he met with the group in Atlanta who had called attention to this night life on the part of Coach Butts and the resulting unpleasantness that it was causing our University, and it resulted in Bill Hartman returning to Athens and confronting Coach Butts with the situation. And it developed out of that he was notified that unless he resigned, the entire matter would be thrown before the [fol. 1261] Athletic Board of the University.

He did resign and in fairness to him and as another indication of the generosity on the part of the University officials, all of whom were sympathetic with him, all of whom had been friends of his for years, including Dr. Adershold, permitted him to resign upon two conditions, one, that he would have nothing whatsoever to do with football, and the other condition was that they would let him be athletic director, a very generous opportunity on their part and an opportunity for the man that had done wrong to straighten himself out.

Frankly, it seems to me from the evidence which has been introduced in this case that the University officials may have made a mistake and now regret it, but, nevertheless, out of their own generosity they undertook to straighten out a man who was their friend and who needed another chance.

He had that opportunity. They did reduce his salary from eighteen thousand five hundred dollars down to twelve thousand five hundred dollars, but certainly with the lesser responsibilities, if any, that he took on, I would say that that was a reasonable salary upon which he could have maintained himself.

But he became bitter and that bitterness grew from bad to worse, and you have heard the University officials state under oath that it became so bad that it became a statewide topic, and again he had to be confronted with these facts. He not only had failed the University in the training of our youth, which principal responsibility was to [fol. 1262] build character in these young people who were at the University to be trained, and a part of their training was building character, he not only failed in that, but in the process he lost his own, and one of the most tragic things that I have experienced in my forty-one years of the practice of law is to find a man in the responsibility which he at one time held to have dropped to the point where his best friend and his employer and the people with whom he is closest associated will come before a disinterested jury,

face-to-face with the man himself, and say that he has lost his character. He has my sympathy more than yours, and I speak to you in the deepest sincerity when I say that.

I have only one explanation of it, and that is the associations that he kept. I don't know what influence this man Scoby had on him. Scoby said he doesn't gamble any more. I will say this to you, that in all of my experiences I never heard of a man that bet fifty thousand dollars on collegiate football in one football season. If I had a friend that had been my friend over a period of sixteen or seventeen years, if he followed that kind of a practice I believe I would know about it, and I would shun his companionship.

And I will tell you something else. Maybe one standard of conduct may apply to me as a lawyer, but there is a higher standard of conduct to be applied to a man who is a football coach at a university or head of the Athletic Department.

Again, let me mention Chancellor's Barrow's name. I can't help but do it, because that man did more for me than [fol. 1263] any man with whom I have ever come in contact with.

When I attended the University of Georgia for four years, Chancellor Barrow used to make a talk in chapel every day for about twenty minutes, and he never ceased to say how important it was to maintain a good companionship. When I got there I was a scrawny-looking fellow with a twelve and a half collar and a pretty inexperienced man, and that was the first experience I learned at the University of Georgia, before I opened a book, and that is the experience Schroder has had and that is the experience that Judge Morgan has had, and it is the finest lesson that any young man at the age of eighteen can experience, because he is in the formative years of his life where he is trying to train himself for business, and at the same time in most cases it is the first time that that young man has ever been away from home for any long period of time. He is on his own when he gets there, and he needs the help and guidance,

and there are men at the University today that now take the place of such people as Professor Sanford and McPherson and Doctors Vocoff, Payne, and Parks, and those people, Hooper, who were there when I was there, trying to do the same job.

Now, let me pass on from that for just a moment. This business that I am talking about of Coach Butts toward the University and toward the Athletic Board, and including the coaching staff, in spite of a letter which Mr. Schroder may read to you which said he was a great friend of the coach, and so forth, he condemned them all, and he not only did it in private, he did it in public.

[fol. 1264] You heard a man testify here, Bill Bradshaw, a big strapping, fine-looking young man who lives in Canton, Georgia, and who is now on the Athletic Board of the University of Georgia, who heard these comments. It wasn't hearsay; he heard them himself. And how on earth a man could condemn the University of Georgia in the presence of his employers is beyond my comprehension, and it shows this, and this is why I am sympathetic to Coach Butts.

Something snapped in him; something changed. From 1960 right on up until the day that he was relieved as Athletic Director he was a different man. He had hurt himself, his University, and the people who he was employed to train, and neither I nor anybody in this courtroom will ever know who was stained by that conduct, nor will you ever know where it stopped. It may be influencing some young fellow today who himself is unconscious of the example which has been set before him, and he today may not know how that influence has affected him.

There are some ten thousand students at the University of Georgia, or thirty thousand, as I recall, over the State, but those are branches, about six or seven at Georgia Tech—that is a part of the University System—but there is about ten thousand at Athens. It would be hard to tell who has been affected by such an influence. But I will say

this to you, if the public at large over the State was aware of this misconduct, if the faculty was aware of it, if the Athletic Board was aware of it, and if the alumni of our good University was aware of it, I will guarantee you that a big portion of those students were, and if one man has [fol. 1265] been influenced badly by it, that is all the condemnation that is needed.

I want to mention one other thing. You recall the evidence of Mr. Bolton, Dr. Aderhold, and some of these other men whom I hope you will accept as worthy of belief. They are still your employees; they are charged with the responsibility of educating your children, your relatives and mine, and if they are not worthy of belief, they, too, should be discharged.

In early January, 1963, after this continuance and after this bitterness and after this open criticism, and after a continuance of this same conduct, instead of getting better, it got worse.

They call him in—and bear in mind, this is before any of the Butts-Bryant affair—and he was notified that as Athletic Director he would have to resign, otherwise the full Board was meeting on January the 28th. This discussion with Coach Butts was on the 20th which followed a meeting of a special committee that met on January the 18th, and on the 20th, he was notified that at the full Board meeting to be held on the 28th, if he hadn't resigned by that time that they would discharge him. So he resigned.

They did arrange for him to stay on, let it be effective June 30, so as to make some arrangement about a pension, and then—

Mr. Schroder: If it please the Court, I don't think it is good for any lawyer to interrupt another lawyer during [fol. 1266] his summation, and I am not going to interrupt Mr. Cody at any time during his summation, but his recollection as to what the evidence is and mine may differ, and the jury, I think, ought to know that what we are talking about in our summations, is our own recollection of what

the evidence is and not what the evidence itself might be. I do not agree with the last statement that Mr. Cody made.

The Court: I think the jury heard the evidence, and their recollection is probably as good as yours, Mr. Schroder's, Mr. Cody's and mine. I will let him go ahead.

Mr. Cody: All right, sir.

There is one other thing that happened at that meeting that his attention was called to, and that is that during this period of reprieve which he had been given, during which time he had been made Athletic Director, he developed a great many outside business interests, including this loan business and a lot of others, which your employees and mine, the faculty at the University of Georgia, decided conflicted with his interests and gave him no time to fulfill the responsibilities that had been placed upon him, and that was another reason why he was asked to resign.

In that connection, let me point out one thing that shows you how Coach Butts more or less cracked up. I don't say this in criticism of him. I am really ashamed to mention it, but in fairness to my client I am charged with the responsibility of pointing out to you matters which, if serious, give you reason not to believe what he says. I don't think he [fol. 1267] knew himself what he was doing. I don't think he fully understood or comprehended the effectiveness of it, because when he went over the State in an effort to obtain these licenses to operate these small loan companies, he had to get the permission of the Comptroller of the State of Georgia for the issuance of a license, because the small loan business in Georgia is controlled by the Comptroller General, a public official of our State.

Exhibit No. 11 of the defendant is a financial statement which this man gave to your public official, and it says—it recites his assets and his liabilities in detail, and then says at the bottom that his net worth on July the 17th, 1961, is two hundred five thousand nine hundred eighty-eight dollars, and, yet, in order to obtain your sympathy in this case—I assume that was the reason—he stated on this

stand under oath that he was now insolvent, and Mr. Schroder undertook to ask him how could he become insolvent between July 17, 1961 and the date of this trial, and he said he sold a couple of his stocks. One of them he did—he did receive a loss on it, but the other one turned out to be a big gain, and those two transactions didn't change his financial status one bit; it improved it, if anything, because he said he bought the Georgia International Life Insurance Company stock at six, I think, and sold it at eleven. If he had held onto it, it is a lot more than that now, but that is beside the point.

The point I want to make is that a man that will go to one of your public officials, bet enough to start into this business and a lot of other businesses while he is charged with the duty of Athletic Director, but it is worse, in order [fol. 1268] to obtain the license to do that, to misrepresent your financial condition.

I want to talk to you a minute, Gentlemen, at this point about the law of this case. It is not very complicated. It is fairly simple. Judge Morgan might disagree with me. He is charged with the responsibility of giving you the law of this case. but I want to mention this.

No. 1, we take no issue with the plaintiff in this case with the fact that up until a certain time he enjoyed the greatest of a reputation as a football coach, had many friends throughout the United States, was asked to make public speeches. I will go so far as to say, in all fairness to him, that he knows as much about or did know as much about football as any man in this country, and I, a few years ago, would have put him up against anybody. But the point in this case is, what happened after that, after he terminated his responsibility as a football coach following 60, and how did it affect this case?

I will get to this Bryant affair in just a minute. I don't have much time, but I do have another opportunity to speak to you on Monday, as you probably understood from the Judge's comment. I will have a little time between now and

then to think about what I want to say, and I will try to do a better job than I am doing this morning, but I want to touch now on the question of law involved in this case that I assume the Court will instruct you about.

In a libel action, if some unfavorable comment or critical comment, no matter what that comment is, is made, if the [fol. 1269] defendant can prove the truth of it, there can be no liability, and if you believe that the truth has been shown by a preponderance of the evidence, you must find a verdict for the defendant in this case.

Now, let me define to you or mention briefly what I assume the Court will instruct you about in its charge to you as what it means by "truth". It means substantial truth, not every word in the article. You can make mistakes in the article. It means that the defendant is charged with the responsibility of proving the truth of that part of the article which constitutes the sting of the so-called libel, that is, they could cover a wide area in the article itself and make some mistakes in it, as we have made in this case. There are some errors in this article; no one denies that. We spent hours and days talking about a few mistakes in the article, and I confess that there are some mistakes in it, some misquotations, not particularly chargeable against the Post, although they are responsible for it because it came through their agent—Furman Bisher was one of them, who is a responsible journalist in Atlanta—and if he makes a mistake, we have to be responsible for it. Nobody has dodged that issue, but if somebody is misquoted or some misstatement is made which is a reflection on somebody else, it doesn't have anything to do with his particular case.

The first day of this trial I went home that afternoon, a little bit tired, and picked up the paper to read it, and some newspaper man made a comment about me. He said I was age fifty and slightly bald. He missed my age by fourteen [fol. 1270] years, and whether or not I am slightly bald, I will let you be the judge of that. Frankly, I think he's drastically wrong in both of them.

He has got a right to make whatever comment he wants, but in journalism the law assumes that mistakes can be made. You can't check out every—you can't check out every incident before you publish an article. A man didn't come to me and ask me what my age was. I don't guess he would have had time to write his article in the paper if he checked every detail in the article, because he covered a wide area of subjects.

But, be that as it may, there is very little I can say about that. I want to talk to you a minute about these notes. May I have them just a second?

The Clerk: Yes, sir.

Mr. Cody: We are getting down to the Bryant affair now. These notes are made by an amateur, not a football coach. A lot of them don't make any sense. It is written down in pencil on notepaper, taken during the course of the telephone conversation; several are almost illegible, but there is a lot in these notes, and before I touch on what is in these notes that apply to this case, I want to mention this to you.

There are two other things that Mr. Schroder would like to forget about, because in his questioning of these witnesses that he had, they said that these notes weren't any good and one said you might as well tear them up. He [fol. 1271] didn't give those witnesses the benefit before they testified of the detailed deposition that was given by this man Burnett long prior to this trial in which he explained a great many things about that telephone conversation that are not mentioned in these notes. He amplified these notes and explained some things about it.

Mr. Schroder: If the Court please, I don't remember Mr. Burnett testifying in any deposition in this case. There wasn't read any deposition of Mr. Burnett. I think that is highly improper.

Mr. Cody: He examined—

The Court: Just a moment. What is your—

Mr. Cody: He examined him about some depositions.

Mr. Schroder: Mr. Cody—

The Court: Yes, sir.

Mr. Schroder: —is attempting to state to this jury—

The Court: You quote—I don't think—

[fol. 1272] Mr. Cody: I won't quote the deposition.

The Court: I don't think anything that was said in the deposition which was not read would be admissible.

Mr. Cody: Very well, Your Honor; very well.

And then we come, as I consider it, to the most important feature of this case, and that is that on the last page of these notes is the extension number of "Bear" Bryant at the University of Alabama switchboard. Extension 641. Anybody could obtain that, I guess. You could have called up down there and found out that extension number. I don't deny that, if a man wanted to falsify these notes.

He put down the time as 10:40 a.m. on September 13, 1963. That, too, could have been falsified, because anybody can write that time and the date down, but here is something that no man could put down and be accurate unless he had some sort of a psychic power.

It says here "Give Wally a ring Sunday." Now, this was on September 13, a Thursday. Sunday was the 16th, and not until recently has any confirmation been made of that Sunday telephone call, and bear in mind, Gentlemen, this call from "Bear" Bryant to Wally Butts on the quiet of a Sunday afternoon, and the telephone records show that the call went to Wally Butts' home, lasted an hour and seven minutes, and nobody, to this day, knows what the subject matter of that conversation was. Neither Wally Butts nor [fol. 1273] "Bear" Bryant remember making the call, nor do they remember the subject matter about which they talked. That is one of the most incredible things about this case.

There is only one class, only one type of person on earth that could talk an hour and seven minutes and not remember making the call or not remember what they talked about, and that exception is, in my judgment, a teen-ager. A teen-ager can turn the radio on and listen to Ricky Nelson, and at the same time turn the T.V. on to listen to

“Bonanza” or “Dr. Kildare” and spread out on the floor like syrup, and grab that telephone and talk for an hour and seven minutes without knowing what they are talking about or who they called. But, I dare say, that even a few of those would remember something about the call.

But in this particular case, two men who were talking football, let's say it is just general football talk, talking that length of time before this upcoming Georgia-Alabama game, I say to you in all sincerity that to be unable to remember the call or the subject matter is one of the most unbelievable things that I can imagine. I don't intend to comment on that any more. I simply say that there is not the slightest bit of evidence, not the slightest bit of doubt that that call ever took place and the length of it, and if, at the conclusion of this case, you as a matter of fact find that call didn't take place, you want to find a verdict for this plaintiff.

But you will have with you in the jury room a toll ticket of the American Telephone and Telegraph Company or Southern Bell Telephone and Telegraph Company. Here they are. You can look at them. And that company has a [fol.1274] machine—this is not a human error on anybody's part; this company has a machine that, the minute a call is through, that machine stamps the time of that call, because all along, since the connection was made and since the party started talking, that machine was recording the time, and it is on the back of this toll ticket, and there could be no possible human error about it.

The same applies to the call of September 13, which Butts made to Bryant.

I only have a few more minutes this morning. I want to mention something before I close, and I may have something to say Monday on the same subject.

The subject of any legal investigation is to ascertain the truth, and if you can ever find out what is the truth in this case, your decision, of course, will be easy. This has been a long case. You have been patient, and in your effort to strive to obtain the truth you necessarily will have to judge

the credibility of witnesses. The Court will give you some instruction about that, because there are some Code Sections in Georgia, and this case is governed by Georgia law, even though we are trying it in the Federal court. You are the judges of the credibility of the witnesses.

Now, I want to mention, first, this fellow Carmichael. He started out in this case by undertaking to convince you he was a real estate man and an insurance man. The truth about it, he is neither one. He changed his testimony—and this is under oath to you—he changed his testimony three [fol. 1275] or four times before he ever got to you. He testified one time in a public hearing that was had involving this matter, he testified another time on deposition which I questioned him about, and then he testified a third time in connection with another case, not this one, and something was asked him about this same transaction, and if I recall the testimony correctly, every one of them was different, and then when he got before you he changed his testimony three times. You remember he was here one day and his testimony was along certain lines, and he came back the next morning and said that his testimony the previous day was in error, and he made two or three changes in it, such changes as might suit his convenience.

Now, you can judge the credibility of that type of a witness, not me to judge but you. I simply point it out for what it might be worth, because I may be just a little bit more experienced in the handling of a witness than you might be, because I submit to you that a man that will do that is not worthy of belief in any respect.

And let me touch on “Bear” Bryant just a minute. “Bear” Bryant was charged with the same responsibility as Wally Butts with the training of young people, and he brought two of the finest looking boys into this courtroom that I ever saw in my life. You may not remember them by name, but I do. Sharp is one and Pell is another, Jimmy Sharp and Charles Pell. Jimmy Sharp was a tackle on the 1962 football team and was captain of that team. Charles Pell was the guard. Never in my life have I seen two finer

looking young men, both by appearance and physically, and they made such good witnesses that even Judge Morgan was [fol. 1276] prompted to ask Sharp something along this line—I don't remember the exact transcript of the record; it will be in the record; you may remember it better than I do; I had my mind on other things. The Judge asked him if he intended to study to be a coach, something along that line. I don't remember his exact answer; all I know was that it left me with the conclusion that he might, or something of that sort, and it comes out, and this evidence is in the case, that those two men are on the coaching staff at the University of Alabama and recognized as such. They are assistant coaches, and I say to you that that type of exception, don't blame these young men; they are under the influence of "Bear" Bryant, and if "Bear" Bryant asked them to come up here and condone the fact that they were assistant coaches, I guess they'd do it, because somehow or another a coach has got an influence over a young man that no other person has, not even his parents, and that is the tragedy of this whole situation.

I believe in deception on the football field, but deception in the courtroom is another thing, and I dare say that if those two boys had stated in open Court they were assistant coaches at the University of Alabama, I would have asked them some more questions. I don't recall that I cross-examined either one.

I forgot to mention one thing about this fellow Carmichael. There is another fellow that has been a friend of Butts for fifteen years. He denied it was any close friendship, tried to pretend it was an acquaintance; I guess that's right. But somewhere in the examinations of that witness [fol. 1277] he said he went to his dentist that morning, and after he left there he came on to this office where he ran into Burnett. And I asked this dentist to come to Court, bring his records. He said he hadn't seen him in a long time up until October 4th. That is, in essence, what the records show. I could be wrong. If I am, you can criticize me for it. I can't remember every detail in this case, but,

as I recall, he said October the 4th was the first date that his records showed the man had been there in a long time, but we were talking about September the 13th. That is the important date in this case.

When you are talking about the credibility of witnesses, you have under consideration probably the most important phase of the trial of any legal case. Some witnesses hide facts, and when you find one doing that, you ought to accept his testimony with suspicion.

Let me give you an illustration. We took the deposition of this man Scoby in Chicago, and we undertook to find out something about his acquaintances, and we wanted to find out who this man was that was handling all these bets. If I knew his name and address, I might have been able to give you some more information about this case. All I learned was his name was "Lefty." Well, there are a lot of people named Lefty and a lot of people left-handed, including Dr. Rose. Lefty doesn't mean anything to me nor to you. He didn't know his last name, where he lived. All he knows, Lefty was the one that picked up this money when he lost and brought the money there when he won.

[fol. 1278] Let me tell you this. You have got some very credible witnesses in this case, and they didn't tell you all they know. They have saved all of us a lot of embarrassment in this case, including Coach Butts, and rightly so, and I am delighted that they did, and I have been a party to it, but if Dr. O. C. Aderhold, president of the University, if Mr. J. D. Bolton, who has been there nearly forty years, if Harold Heckman, who has been there thirty-something years and is now head of the Accounting Department and teaches business accounting and business administration at the University, if Dr. Hugh Mills, who is head of the Department of Education, I don't know what that encompasses, I think that is general academic subjects, if Mr. Driftmier, who is head of the Agricultural Department—and, incidentally, outside of two other schools in the United States, I believe the University of Georgia has one of the largest agricultural departments in the world; they have got

a terrific agriculture department down there; if those type men and the men such as Bill Bradshaw, who studied football under Coach Butts and who now represents the alumni of the University, if those sort of men are lying to you, if you think that, then I think you ought to find a verdict for the plaintiff in this case, because our case depends upon people of that character and that responsibility.

It is not up to me to tell you to believe them. If you have the slightest doubt about their honesty or their integrity or the correctness of their evidence, then we have not carried the preponderance of the burden of this proof which is placed upon us, and you ought to find a verdict for the Plaintiff. But I don't believe, and I say this as my time ends—

[fol. 1279] I have a minute, don't I, Judge?

The Court: Yes, sir.

Mr. Cody: I don't believe that those men, charged with the education and the training of your children and mine and the training of children who are hereafter to come, would come into this Federal Court in the presence of a jury and Judge Morgan and the assembled audience, and say what they did, and if what they have said is false and is of no effect, there is no person in this courtroom that is more disappointed than I, and there is no person in this courtroom, in that event, that would worry more about the future of our State.

What little I have to say left I will say Monday. I will try to formulate what few remarks I am to say with a little more definiteness and probably in briefer form, because I will have a little more time to think about it. But, in the meantime, I thank you for your patience which you have shown in this case, and I hope that over the weekend that you will give serious consideration to such comments as I have made, and if I have made any exaggeration or any misstatement in my recollection of what the evidence is in this case, I hope you will forgive me.

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