

James Kirby, *Fumble: Bear Bryant, Wally Butts, and the Great College Football Scandal*. New York: Harcourt Brace Jovanovich, Publishers, 1986. 248 pp.

Thirteen must not be George Burnett's lucky number, because on September 13, 1962, the insurance salesman had a phone call with destiny. Through the mechanical error of a long-distance cross-connection, Burnett cut into a call between University of Alabama football coach Bear Bryant and University of Georgia athletic director Wally Butts. He overheard a nearly fifteen-minute conversation in which Butts evaluated the Georgia football team's personnel and described its offensive formations and defensive strategy. Butts could not answer a few of Bryant's specific questions about play situations, but agreed to telephone the 'Bama coach after an upcoming closed Georgia practice.

On Saturday night, September 22, 1962, Alabama overwhelmed Georgia, 35-0, the Bulldogs' worst defeat in this series since 1923. Alabama's total mastery in the game appeared in the statistics that showed Georgia had only managed to cross midfield twice, with a total offense of 116 yards. The Crimson Tide more than doubled the gamblers' point spread of 14 to 17 points.

Burnett had made notes of the telephone conversation. He wanted evidence for his friends that he had witnessed two sports celebrities, two of the giants of the South, having an unguarded conversation. The exchange of information about the Georgia team troubled him, but he did not break his silence until several months later, when he told his story to a friend of the Georgia football coach John Griffith. His eavesdropping eventually resulted in a major news story in the *Saturday Evening Post*, a court suit in Atlanta, and Burnett's losing his job and being forced to relocate to Texas, where the incident cost him at least one business promotion.

*Post* editor-in-chief Clair Blair had instituted a policy of what he called "sophisticated muckraking" to increase its circulation. This policy had resulted in a story charging Bear Bryant with excessive brutality in practice and against

opponents. Bryant filed suit against the magazine and when lawyers working on the *Post's* defense learned of the Burnett episode they decided to follow up the possibility of an exclusive story. The result was "The Story of a College Football Fix: A Shocking Report of How Wally Butts and 'Bear' Bryant Rigged a Game Last Fall," by freelance writer Frank Graham, Jr., that appeared in the March 23, 1963, issue.

The author charged that Bryant and Butts conspired to fix the outcome of the Alabama-Georgia football game. The magazine believed this story confirmed the undercurrent of rumors about rigging games in big-time football that followed the discovery in 1961 of point-shaving in college basketball.

Even before the publication of the story, the circulation of Burnett's notes was sufficient to bring Butts's resignation as athletic director at Georgia. One week after the story appeared, Butts filed a suit against the magazine asking for \$5 million in punitive and \$5 million in compensatory damages. The Southeastern Conference Commissioner initiated his own investigation of this episode. And the National Collegiate Athletic Association, as it had done repeatedly in questions involving coaches rather than players, did nothing.

James Kirby, now Professor of Law at the University of Tennessee, represented the Southeastern Conference as an official observer at the 1962 Wally Butts vs. *The Saturday Evening Post* trial in Atlanta. He meticulously traces the trial, evaluates the evidence presented and missed by the defense, examines the courtroom procedures of the lawyers on both sides, and considers the judgment in evolving decisions on libel. He concludes that three major institutions—the law, the press, and "big-time" football—"fumbled" in their efforts to serve justice, inform the public and reform college football. The most admirable person in the sordid affair was the one who suffered most, George Burnett, who had overheard the telephone conversation and eventually reported it.

*The Saturday Evening Post* hurt its credibility with the public and the jurors by its arrogance, failing to double check information so that sloppy errors crept into the story that made its major points questionable. Moreover the *Post's* editor, Roger Kahn, did not bother to attend the trial in person, allowing Butts's attorney to develop a line of argument about Northern journalists to a white southern jury.

The defense lawyers failed to collect important evidence, especially incriminating letters from Bryant to the President of the University, and failed to prepare adequately on the technical aspects of football and gambling (making nothing out of the importance of the point spread). Bryant and Butts benefited from luck as well, as the courts were developing a definition of libel that only a few months after this decision would have placed the burden of proof on Butts to show that the *Post* had willfully presented misinformation and did so to damage his reputation. Instead, in September 1962, the magazine had to prove the truth of its assertions and it failed to persuade the jury.

By not finding a shred of action on the part of the NCAA, Kirby damns that institution for its usual shoddy performance in the major issues of intercollegi-

ate sport. Condemned by its inaction, clearly intercollegiate sport means little more to the NCAA than a source of revenue.

Kirby corrects the legend of Bear Bryant, so that he emerges legendary only in his ruthless pursuit of personal glory. Bryant, as he smirked in his autobiography, obeyed the rules only when it suited him. Recruiting, coaching practices, and sworn testimony were activities in which his desires overwhelmed commonplace rules and the law.

The author has provided the reader with a thought-provoking book about the demands made by big-time college football on the men who coach it and the organizations that oversee it. Bear Bryant would do anything to win and Wally Butts could find little to compensate for the thrill that came from coaching winning teams.

The author demonstrates his legal training by his extreme caution in reaching conclusions. He places blame fairly on the coaches, the lawyers, and the NCAA, although he must be faulted for excusing the inaction of the Southeastern Conference. Much of this book reads like a legal tract and thus will not receive the wide audience it deserves, but it repays the effort necessary to read it. Butts won his case, but never regained his popularity, and Bryant settled out of court rather than appear before a jury on his suit. The former was out of intercollegiate sport and the latter drastically and dramatically cleaned up his coaching-in those small ways sport gained from the trial.

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