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Tuesday Morning Session, October 19, 1954.  
9:15 o'clock a.m.

(In absence of Prospective Jurors.)

MR. CORRIGAN: If the Court please,  
 as part of my motion--

THE COURT: Mr. Corrigan, may we  
 dispose of this gentleman here first? I am sorry,  
 Mr. Prosecutor, I did not have the opportunity to  
 talk to you last night about Mr. Rowland. Mr.  
 Rowland has a very -- I don't want to alarm him, --  
 what he thinks is very serious trouble, health  
 trouble, and he has a certificate from a physician  
 here which certifies that he is not a person who  
 ought to be required to render jury service.

Is there any objection to releasing Mr.  
 Rowland?

MR. CORRIGAN: No objection, your Honor.

MR. MAHON: No objection at all.

THE COURT: And I take it you have  
 none, Mr. Corrigan?

MR. CORRIGAN: No, we have none.

THE COURT: Mr. H. G. Rowland will  
 be excused. ✓

MR. CORRIGAN: I happen to know what that  
 trouble is.

If the Court please, I would like, as part of ✓

19

my motions, to introduce in evidence a complete ✓  
file of the newspaper copies as clipped from the  
newspapers. They are two volumes marked Exhibit 1  
and Exhibit 2.

(Defendant's Exhibits 1 and  
2, on motion, were marked  
for identification.)

MR. MAHON: We object at this time.

THE COURT: What are these on?

On what motion?

MR. CORRIGAN: On both motions.

THE COURT: I see. Well, why don't  
you hold them until we get through with what we  
are doing now? Then there will be opportunity  
to deal with anything of this kind that we have.  
That is our understanding.

MR. CORRIGAN: And I would also like to  
introduce a copy of the transcript, the meeting that  
the Court had on October 14th with the newspapers  
whereby the space in the courtroom was allotted to  
newspapers, radio and television stations, and ✓  
marked Exhibit 3.

(Defendant's Exhibit 3, on  
motions, transcript of  
hearing concerning space  
in courtroom, was marked  
for identification.)

MR. CORRIGAN: I would like at this time to renew my motion and ask it be considered at this time because of something that occurred in this city last night.

Between 9:30 and 10 o'clock, the WHK radio station of the city of Cleveland broadcast an hour's program that consisted of a debate at the Sigma Delta Chi, which I understand is a newspaper fraternity and the participants in the debate were James Collins, the City Editor of the Plain Dealer, and Mr. Forrest Allen, the representative of the Cleveland Press, and in that debate there were certain things said that were very detrimental to the defendant, especially as they reflect upon his lawyer, Corrigan, myself.

Mr. Allen said publicly that I threw up road blocks --

THE COURT: That you what?

MR. CORRIGAN: I threw up road blocks in the investigation, and that when I was employed as attorney, then the consensus of opinion was that the doctor was guilty.

Also Mr. Collins referred to Sheppard bird-dogging, and Mr. Allen said -- and finally it came out --

and the admission was made that this trial that we are holding here is the result of the Press handling of the story. In other words, he said the Press handling of the story produced the trial that is now going on.

Now, in view of the fact that this jury was called in here yesterday, this we consider to be very detrimental to the interests of our client. I haven't had time to subpoena the WHK broadcast, but I will do that in the course of the day and bring it before the Court, but I think it is a terrible situation when a man on trial, this individual on trial, is compelled to meet with that kind of a situation in this community, and it certainly deserves some action upon the part of the Court to show the disapproval of this manner of handling a man's case, and the disapproval that the Court can show and the condemnation that can be shown is by continuing this case.

THE COURT: Well, we will first address ourselves -- oh, pardon me.

MR. CORRIGAN: Now, during the course of the day, your Honor, I will get WHK and get that recording, and I make my application for my renewal of a motion for continuance.

THE COURT:                   Addressing ourselves first to the tender of these exhibits, the Court will deny their admission at this time without prejudice. They may be considered later. We will see what develops.

MR. CORRIGAN:               Well, I make an offer of them, your Honor.

THE COURT:                   Show that they are tendered and overruled without prejudice.

The motion for continuance on the basis of what seems or is claimed to have happened over WHK last evening, I am just wondering if we aren't over-emphasizing these things, in any event, even in the courtroom. I don't know how many people there are in the Court's position. I had no idea whatever that any such thing took place until this very moment when you mentioned it, so if there are half a million people in this community in the position that the Court is in, WHK doesn't have much coverage, and it better start off on some kind of new public relations. I had no idea any such thing happened.

In any event, we are not here -- we cannot control sources of publicity -- that is beyond the power of the Court -- and the motion will again be overruled with exceptions noted.

MR. CORRIGAN:            During the day, your Honor,  
I want to make my offer of that.

THE COURT:                Yes. After all, we are  
not trying this case by radio or in newspapers or  
any other means. We confine ourselves seriously  
to it in this courtroom and do the very best we can.

Now, let's have the first gentleman.

MR. MAHON:                Shouldn't we have the  
first juror here?

THE COURT:                Oh, I beg your pardon.  
He is coming right over.

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