

# A Futile Prosecution

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THE CITY OF Montgomery will have to make a powerful effort to outdo the futility of bringing the 20 integrated diners to trial.

To begin with, the whole affair was first and foremost a violation of the Southern position. The very essence of the Southern argument for segregation is that we have a right to choose our own friends, so we choose not to associate with Negroes. So does not the right to choose one's own friends mean that white people can, if they so choose, associate with Negroes?



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It was broadly hinted at the trials that the whole affair was staged as another publicity stunt. If such was the case, then Montgomery's police department contributed admirably to the effort. Had the police chosen to ignore the luncheon, the event may have gotten moderate play in the local press and a short wire service story for one day only. By arresting the group, our police department saw to it that the luncheon got full and complete coverage in the nation's press over a two-month period. The jailing could well result in Prof. Nesmith's getting a handsome offer to join the staff of one of the Eastern colleges.

## What Will The Supreme Court Do?

THE FUTILITY of the prosecution is further illustrated by the virtual certainty that the city will lose the case in the long run. It is inconceivable that the present United States Supreme Court would uphold the Nesmith conviction. Even viewed from Southern eyes, the city's case was on shaky ground, as evidenced by the fact that the jury acquitted 11 of the defendants and convicted only the leader. There was not a shred of evidence submitted to indicate any boisterous conduct, profane language, loud talk, or any other activity that constitutes disorderly conduct within the true meaning of the word. The city actually never contended that there was disorderly conduct, but rather that the conduct could have caused a riot. It seems to me that, if upheld, this would amount to a serious infringement of American freedom. It might mean, for example, that I would be arrested because some policemen believed that this column was calculated to "cause a riot." Or it might mean the wholesale arrest of political figures in Alabama, for it seems that every time some of them open their mouths they say something which very well could cause a riot.

Moreover there was pitifully little evidence to indicate that there was any real danger of a riot. Official estimates of the size of the crowd of Negroes gathered outside the cafe ranged from 100 to 300. Photographs submitted into evidence, however, do not show anywhere near this number. Besides, who ever heard of Negroes rioting in protest of integration? If a segregation riot by Negroes was about to take place that day, the City of Montgomery would have done well to let it happen. The propaganda value would have been enormous.

## The 'Punishment' Failed

IF THE CITY'S AIM was to "punish" the professor or change his views, then the attempt failed miserably. Actually the professor's views were not changed either for or against the South. Conversations with him gave me the impression he regarded the whole affair as exceedingly unfortunate; he is neither vindictive nor vengeful. Unfortunately, the same cannot be said for another member of the group, the Rev. R. Edwin King. The young reverend did quite a lot of shouting about "police state" conditions in Alabama and his words were carried in newspapers throughout the nation.

Reduced to essentials, the luncheon prosecution was just another skirmish in the long battle for man's right to be different. When one person is forced to conform simply for the sake of conformity, then we have all lost just a little of our liberty.