

Characters:

Charles Toney

Ann Toney

Dorothy Baxter - ice cream clerk

S. Joe Brown - attorney for the Toney's

Matthew Hart - attorney for Dorothy Baxter

Magistrate John P. Dorgan

Jury: (1 man, 5 women)

ACT ONE

July 24, 1945: Opening scene - evening after a play in Davenport. CHARLES and ANN are walking down the street hand in hand.

CHARLES: That play was quite wonderful, don't you think?

ANN: Yes, it was dear. I particularly liked the musicians. They played very nicely.

CHARLES: It's such a nice evening out. Why don't we stop for some ice cream on the way home?

ANN: That sounds like a wonderful idea. Look, there's a place right up the street. (*points towards COLONIAL FOUNTAIN*)

CHARLES: Perfect. Let's go in.

CHARLES and ANN walk into the COLONIAL FOUNTAIN. DOROTHY BAXTER is standing at the counter, wiping down the top. CHARLES and ANN look at a menu and decide what they want to order.

CHARLES: Excuse me, miss? We're ready to order now.

DOROTHY ignores him, and continues to wipe down the counter, even though it is already quite clean.

CHARLES: Excuse me? I don't know if you heard me, but we're ready to order now.

DOROTHY: Oh, I'm sorry. I don't serve folks like you here.

ANN: Oh, my. We just wanted to order some ice cream.

DOROTHY: No, I'm sorry. I don't serve your kind of people.

CHARLES: You do know that, under the Civil Rights amendment in 1923, you can't refuse service based on race, right?

DOROTHY: Um, I don't care? I'm not serving you here.

ANN (*softly, to CHARLES*): Come on, dear. Let's go somewhere else. This isn't worth it.

CHARLES (*to DOROTHY*): We will be bringing this to court, I hope you know. I hope you have a good rest of your evening.

CHARLES and ANN depart from the COLONIAL FOUNTAIN. DOROTHY turns back to the countertop, whistling to herself.

ACT TWO

August 3, in the court of MAGISTRATE JOHN P. DORGAN. ANN and CHARLES sit at a table with their attorney, S. JOE BROWN. DOROTHY sits opposite at a table with MATTHEW HART. The JURY sits to the side, waiting to hear the case.

MAGISTRATE: I call to order the case of the Toney's vs. Dorothy Baxter of the Colonial Fountain Ice Cream Parlor. Will the lawyers step forward to present their opening arguments?

S. JOE BROWN walks to the front of the jury and holds his hands together in front of him.

S. JOE BROWN: Ladies and gentleman of the jury, I would like to remind you of the efforts of the NAACP and Volney Diltz, who worked to with the legislature to add an amendment to the Civil Rights Act that would help eliminate racism within the serving industry, so that couples like Mr. and Mrs. Toney could enjoy some ice cream after a play on a warm summer evening. When my clients went to the Colonial Fountain on July 24, they intended to do just that - enjoy some ice cream. The defendant, Ms. Baxter, refused to serve them, saying, and I quote, "I don't serve folks like you here." This, ladies and gentleman of the jury, is in obvious disregard of the amendment forbidding discrimination of customers based on race.

S. JOE BROWN returns to his table and sits down next to CHARLES and ANN. MATTHEW HART walks up in front of the JURY.

MATTHEW HART: Ladies and gentleman. Have you ever had one of those bad days, where nothing seems to go right? Where even the smallest thing seems to set you off? That, my dear companions, is the type of day my client, Ms. Baxter, was having the evening of July 24. She was tired, as she is pregnant, and when the time came, she simply responded to the situation around her. While I concede that it was perhaps not in the best taste, as the employee of the establishment, she has the right to refuse service to anyone, and she simply made use of that policy. It had nothing to do with the race of Mr. and Mrs. Toney, just a bad decision made in a moment of heightened emotions.

MATTHEW HART returns to his table. MAGISTRATE beckons for CHARLES to come up and testify.

S. JOE BROWN: So, Mr. Toney, will you tell me what occurred the night in question?

CHARLES: We were out for a walk after seeing *The Valley of Decision*. My wife, Ann, and I decided that we wanted to have ice cream, as part of our evening out. We saw the Colonial Fountain and decided to stop in. When we did, Ms. Baxter refused to acknowledge us, even when we asked for her attention. When we finally did, she then refused to serve us, telling us, “We don’t serve folks like you here.”

S. JOE BROWN: Thank you, Mr. Toney. Will you return to the table, and will Mrs. Toney please come up here?

CHARLES and ANN switch places.

S. JOE BROWN: Mrs. Toney, will you please tell us what happened on July 24?

ANN: Yes, Mr. Brown. Like my husband said, we were out for a walk after our show. When he suggested we get ice cream, I saw the Colonial Fountain just ahead, and that it was open, and I suggested we go there. When we decided on what flavors we wanted, Charles went to ask Ms. Baxter for our order. She ignored us, and then told us she wouldn’t serve us, because we were black. My husband asked if she knew about the amendment to the Civil Rights Act, and she denied knowledge.

S. JOE BROWN: Thank you, Mrs. Toney.

S. JOE BROWN and ANN return to their seats. MATTHEW HART and DOROTHY stand up to testify.

MATTHEW HART: So, Ms. Baxter. We have heard from Mr. and Mrs. Toney. Can you tell us your side of the story?

DOROTHY: Yes. well, I was tired, it had been a long day, and I was ready to go home. These two folks came in towards the end of my shift, and took a very long time to decide what they wanted. I didn't hear them the first time they were ready to order, but when I turned around, Mr. Toney was being very cocky and very rude to me. I didn't want to serve him, because I was offended by the way he asked me.

MATTHEW HART: Thank you, Ms. Baxter.

MATTHEW HART sits down. S. JOE BROWN stands up.

S. JOE BROWN: Let me get this straight, you were having a bad day, and you were offended by Mr. Toney's tone when he spoke to you, so you decided to refuse him service, is that correct?

DOROTHY: Yes, that is.

S. JOE BROWN: So, did you refuse to serve him because he was colored?

DOROTHY: No, I was out of sorts. I'm pregnant.

S. JOE BROWN: Well, did Mr. Toney have anything to do with that?

DOROTHY is visibly agitated

DOROTHY: No, I just didn't serve him because he's colored.

S. JOE BROWN: Thank you, Ms. Baxter. That is all.

MATTHEW HART stands up to make his final statement, looking nervous and off because of what DOROTHY has just said.

MATTHEW HART: Ladies and gentleman of the jury. What my client has just said is not evidence that she is racist, but simply a hazard of the times. We are in a very difficult time of history right now, and tempers and patience are running short. My client is not racist, she is simply an overwrought, tired pregnant woman whose normally good judgement was clouded by a long day.

JURY leaves and deliberates for fifteen minutes. Returns to the courtroom and hands a piece of paper to MAGISTRATE

MAGISTRATE: Ladies and gentlemen. The jury has found Ms. Dorothy Baxter guilty of not following the law and refusing service on the basis of skin color. She will be fined \$10.00 and an additional \$30.75 for court costs.

END SCENE