

## DULUTH ASSAULT CASE BEFORE HIGH COURT

### ATTY. BARNETT ARGUES FOR NEW TRIAL

Atty. F. L. Barnett of Chicago, and Atty. R. C. McCullough of Duluth, counsel for Max Mason, the Negro who is serving a term in Stillwater prison for the alleged assault on Irene Tusken, a white girl, which caused the lynching of three Negroes on June 14, 1920, appeared before the state supreme court on April 5th to argue an appeal from the decision of the district court.

#### STORY OF THE CASE. THE MAX MASON CASE.

Atty. F. L. Barnett called at The Messenger office and gave the following statement of the Max Mason case:

The Max Mason case, appealed from the trial at Duluth, was argued orally before the Supreme Court of Minnesota, Wednesday, by Atty. F. L. Barnett of Chicago, representing Max Mason, appellant, and Warren E. Greene, county attorney of Duluth, representing the State.

The case was taken under advisement and an opinion will be rendered later. In his argument, Mr. Barnett contended that the statement of the case by the prosecuting witnesses was wholly insufficient to justify a verdict; that no reasonable identification of Max Mason was shown by the evidence; that Max Mason was indicted after he had been compelled to testify against himself, and that the evidence presented by the state, not only raised a reasonable doubt, but actually proved that no rape had been committed.

The concluding efforts in this case give evidence of splendid race loyalty to victims of race prejudice. Max Mason and five others were indicted for rape alleged to have been committed upon a white woman on a circus ground in Duluth, in June, 1920. The result of that charge was the arrest of seventeen men on the morning after the alleged rape. Three of the arrested men were lynched that night with indescribable brutality, and the whole city of Duluth was thrown into riot and turmoil for three days. Thirteen other colored men were held in jail for several days—then seven were discharged by the Grand Jury and six were indicted for rape. In April, 1921, the indicted men were called to trial. As the prisoners were all poor, the colored people of Duluth determined to secure for them the benefit of a proper defense.

The splendid spirit of race loyalty showed itself, through the work of the Duluth branch of the National Association for the Advancement of Colored People. Under the administrations of Messrs. George B. Kelley, George H. Adams and Robert Newsome, presidents of the local association, more than \$1,200 were raised by this recently organized branch and applied to payment of expenses of the trial of the cases. This small body of race loving people retained F. L. Barnett of Chicago, C. W. Scrutins of Bemidji, Minn., to assist R. C. McCullough in the trial of the cases. Wm. Miller was acquitted—the four other indicted men were discharged without trial, and only Max Mason was found guilty. Out of thirteen men originally held for the rape all were discharged except Mason and the local branch decided to provide expenses of the appeal, and within ten days raised one hundred and fifty dollars to guarantee payment of the transcript of the evidence.

After the local branch had paid all the expenses up to the trial of the cases and paid for the record to take the appeal to the Supreme Court, the Branch referred further financing of the appeal to the National Organization. This great organization, which had acknowledged contributions, specially for the Duluth cases, and of the contributions received had expended \$100.00 towards the defense fund. In perfecting the appeal, printing of the record, costs of traveling and other incidentals, a deficit of more than two hundred dollars must be met, which represents actual cash expended independent entirely of the expenses of F. L. Barnett and R. C. McCullough, who are the attorneys who have prosecuted the appeal.

#### An Appeal for Aid.

It is to be hoped that local branches of the National Association will appreciate the good work of the Duluth Branch by liberal contributions to the National Organization and enable it to meet the unpaid expenses of this appeal.