VOL. CXIII. NO. 155.

TEN PAGES TODAY.

FOR JUSTICESHI

Some Friends of North Caro-

linian Plan To Put Greens-

boro Man On Bench

vacancy thus created.

Justice McKenna is getting along in

years and cannot expect to hold the position much longer at best. But the anderstanding is that he will retire be-

fore the end of the Harding adminis-tration and then Charles Evans Hughes will be named as Chief Justice. This

would be in keeping with the ambition of Mr. Hughes and his many friends

who desire that he be returned to the highest tribunal of the land.

It is known that serious opposition has

developed against the appointment of former President Taft and friends of

the President in the Senate have inti-

mated very strongly that it will be a hard matter to have Taft confirmed by the Senate if his nomination be sent

Therefore, according to the presen

perative that he remain as Secretary of

State for several years because of the

important foreign situation which now confronts America and the entire world.

bility of Bynum's appointment with the

Highway Building: Take

Over Toll Roads

Authority was vested in Chairman Frank Page by the State Highway Com-

crushing plants, one in the east and

for the building of hard-surfaced road

in North Carolina, Rock will be fur

nished to contractors and to counties

Such a step has been contemplated by Mr. Page for several months, par-ticularly since it has been found diffi-

cult to obtain stone at times when i

was most needed and at prices tha

are advantageous to the State. Much

roads has been brought from Virginia

about two hundred thousand dollars.

ACQUIT MADISON COUNTY

the stone used in North Carolina

MEN OF MURDER CHARGE

County for the murder of Bry-

AS CANADIAN GOVERNOR

Asheville, June 3 .- After deliberating

two hours, the jury trying the case of

London, June 3.—(By The Associated Press)—The appointment of Lore

Devoushire was announced officially to

day. Lord Byng first came prominent

ly into public attention when he commanded the attack on Vimy Ridge dur

ARMENIAN STUDENT OF MURDER

Berlin, June 3.—(By the Associated

Press.) Salomon Teilirian, the Armen

ing student who in March last shot and

killed Talaat Pasha, former grand vizier and minister of finance of Tur-

13 Members of Crew Landed.

Miami, Fla., June 3 .- Thirteen officer

and men comprising the crew of the

chooner Mount Hamilton of Christiana

Norway, were landed here this after

noon by rescuers after they had fought

for two hours a fire which finally burned their ship to the water's edge

"LIVE" MAN NAMED MASTER

Milford, Conn., June 3 .- Citizent

"live" man as harbor master for

today forwarded a petition to Governor Lake for the appointment of

The Governor recently reappoint ed Alonso Burns as harbor master

seven miles off Cape Florida.

this district.

MILFORD CITIZENS WANT

returned a verdict of not guilty.

FORMER GENERAL NAMED

ing the World War.

here today.

GERMAN COURT ACQUITS

in the west, to produce stone

mission yesterday to build two

working on State roads at cost,

TWO STONE CRUSHERS

COMMISSION TO OWN

RALEIGH, N. C., SATURDAY MORNING, JUNE 4, 1921.

TEN PAGES TODAY

PRICE: FIVE CENT

NEW AMENDMENTS TO CONSTITUTION

Mississippiari Thinks Confederate Constitution Might Be **Used As Model**

PROHIBITED PROTECTIVE TARIFF FOR THE SOUTH

Tender Tribute Paid Confeder ate Soldiers at Dedication of First White House of Confederacy in Montgomery; Precious Shrine Set Apart By Women

Montgomery, Ala., June 3 .- Amendment of the Federal constitution to em body some of the principles set forth in the constitution of the Confederate States would bring many needed re-forms, Senator Pat Harrison, of Missis-sippi, declared here tonight at cere-monies concluding the reopening and dedication of the first White House of

the Confederacy.

"What a needed reform would be wrought," said Senator Harrison, "if the Congress and the states would to-day amend the Federal constitution and follow the principles enunciated in the Confederate constitution extending the term of the President and Vice President to six years and making them ineligible for re-election. What an omy it would effect and what a saving to the taxpayers of the country if that part of the Confederate constitu-tion could be adopted by the Federal government requiring a two-thirds vote of the Congress to make Federal ap-

propriations.

Prohibited Protective Tariff

"And, oh that some of our present-day Democrats who is their selfish desire to enrich a few at the expense of the many, protect one section to the detriment of another, who have joined the ranks of those who believe in a har protective tariff, would read and mem-orize that part of the Confederate con-in. stitution that condemned in the strongest possible language a protective tariff plans, one of the older present justices and unanimously laid down the rule of the Supreme Court will be elevated that the passage of any such law was to the chief justiceship and Bynum, or forever prohibited by the Confederate some other new man be named to fill

Senator Harrison, who made the principal address at the dedication as a shrine for the Old South of the mansion in which Jefferson Davis lived during the early days of the Confederacy, paid high tribute to Davis, asserting that "Jefferson Davis is truly the Oliver

Tenerson Davis is truly the Oliver Cromwell of America.

"No American has been so little understood and so maliciously misrepresented as Jefferson Davis," Senator Harrison continued, adding that the imprisonment of Davis in Fortress Monroe "is only exceeded in debased mockery by one incident in the annals of history and that the crucifixion of the istory, and that the crucifizion of the lowly Nazarene.

The Mississippi Senator described as "fatal blunder" the removal of the capital of the Confederacy from Mont-

gomery to Richmond.

"Left in Montgomery," he added, "it would have compelled the enemy to opa distant upon lines of communication 800 miles long, while it would have liberated to be sed as the occasion demanded, a mag nificent army which was constantly re quired for the defense of Richmond.

High tribute also was paid by the speaker to the survivors of the Confederate army gathered here to honor their leader.
Praises Glories of South.

"Men of the gray and women of the sixties," said Senator Harrison, ad-dressing them, "by your magnificent examples of devotion and bravery and sacrifice, you made humanity better. By the qualities and virtues you exhibited in that great struggle, patriotism was made more sublime, and let me say to you fear not that in this materialistic age the children of the South will ever forget the principles for which you suffered and the priceless heritage that you have given us. We and our children will revere the spirit of your service and devotion. We will remember that your marvelous selfabnegation, heroic sacrifice, and un-yielding patriotism is the most glorious legacy with which the south is endowed."

"I never want to see the glories of the South forgotten in the maelstrom of industrial strife," said Senator Harrison. "I never want to see the principles for which our fathers sacri-ficed, supplanted by a yielding to the commercial exigencies of the hour. I never want to see the shrine that was built by our splendid men and noble women torn down and in its stead on erected to the God of Mammon. The sentiment of the South it too dear its heritages too priceless, its sacrifices too great, its principles too precious and enduring to be birtered, however large and alluring the price. The con-viction of the men for the right who moulded the destinies of the South is dyed in blood too pure to ever fade, the cause for which they suffered was too just and too righteous for its children ever to suggest excuse or offer apology."

Shrine of Confederacy. The first white house of the Con-federacy, one of the most precious shrines of "the Lost Cause" was dedica-ted here today by the Sons and Daugh-

ters of Dixie. Gra clad survivors of the heroic host which upheld the cause of the Suoth for four years were in the throng which came to the first capital of the Confederacy to formally set aside the home in which Jefferson Davis first too up his abode as preside t of the Confederate States of America. With them time their wives and daughters and sons, representatives of the South of the sixties and the South of today. Men who followed Lee and Jackson Johnstone, Forrest, Stuart, and other great generals of the Confederacy were the most prominent of survivors who gathered lere from all the states of the South and from many of the other

(Continued on page four.)

THREE KILLED IN AUTO WRECK NEAR TWIN CITY An incoming passenger train from Roanoko, Va., this ovening struck a Ford containing four people at a crossing near the Peldmont fair grounds. The machine was wrecked and three passengers killed, these being Walter and Ellis Tesh; and Jeff Norman, the latter colored. Thomas Tesh, brother of Walter and Ellis badly injured, was rushed to the hospital. The four men worked in town and were en route to their home a few miles in the country. MONEY VOTED FOR SHIPPING BOARD TO CONTINUE WORK

Merchant Marine

ALL WOODEN VESSELS TO BE SOLD BY OCTOBER

Salaries Paid Shipping Board Officials and Employes Particular Target for Iowa Senator; Appropriation Provided is \$50,000,000 Increase Over House Bill

Washington, June 3 .- After hearing The News and Observer Bureau,
603 District National Bank Building
By EDWARD E. BRITTON.
(By Special Leased Wire)
Washington, June 3.—Judge William
P. Bynum, of Greensboro, is being considered by President Harding for appointment as a member of the Supreme
Court of the United States to fill the
vacancy created by the death of Chief denunciation of the shipping board for its management of the Merchant Marine by Senator Kenyon, Republican, Iowa, and others, the Senate today approved a \$75,,000,000 deficiency approprintion for it and a few hours later passed the deficiency appropriation bill earrying a total of \$155,000,000, invacancy created by the death of Chief Justice White. The plan, according to rumors in official circles, is to have Justice McGenna appointed as Chief Justice and for Judge Bynum to fill the luding the shipping board item.

In approving the appropriation, the Senate added an amendment offered by Senator Lenroot, Republican, Wiscon-sin, directing the board to sell all wooden ships by October 1.

The Board in its management of the merchant marine was described by Senator Kenyon as extravagant, wasteful and "recking with graft," Other Senators, including Pomerene, Democrat, Ohio, and Poindexter, Republican, Washington, also denounced it, but Senators Edge, Republican, New Jer-sey; Jones, Republican, Washington; and others, while saying there had been extravagance and waste in the past, argued that the new board soon to be appointed should not be penalized through lack of funds for mistakes which were "water over the dam

Salaries paid shipping board officials and employes were the particular tar-gets against which Senstor Kenyon shot his hottest invectives.

Estimating that shipping board oper ations were resulting in a daily loss to the government of from \$500,000 to \$1. 000,000, Senator Kenyon declared that "unless these expenses can be stopped this vacancy. Then Hughes can be taken care of later on in the present administration. Hughes would be named now but it is considered imthe Amedican people will not stand for this thing much longer."

The Iowa Senator's charges aroused the Senate so that in the debate of two hours duration that followed half dozen Senators were on their feet at the same time seeking either to denounce the board and its administra-tion or to defend it and to plead for the approval of the \$75,000,000 appro-priation, a net increase of \$50,000,000 over hte amount given the board by the So far as Judge Bynum is concerned he is not making any effort to land the place but it is known that certain men, high in National affairs of the present administration, including President Harding's personal friend, Col. James T. Darden, have discussed the possi-House.

The total increase in the bill as

assed by the Senate includes \$53,000, 000 for various items recommended by the appropriations committee and an increase of \$1,250,000 added by amendments for soldier hespital projects; \$500,000 for the Speedway or Broadview hospital at Chicago and \$750,000 for the Dawson springs, Kentucky, sani tarium. The bill also includes \$200,000 Will Supply Crushed Stone for for prohibition enfodeement.

DEBATE ON GRAIN EXCHANGE

BILL DEVELOPS IN SNARL Washington, June 3 .- Discussion of the Capper-Tincher bill to regulate grain exchanges before the Senate agriculture committee today developed into Congressional authority to administrative officials. It culminated in the dec laration of Senator Reed, Democrat. of Missouri, that he could not differentiate between government by an individual, board or commission, and the government of William II of Prussia. The Missouri Senator delivered a broadside against provisions of the grain bill, the packer control measure and others which contemplate reposing broad powers to make rules and regu-

lations in department heads or commissions. It was nothing short of so-Mr Reed added that all regulations drafted under delegated power in the past had been written "by doctors of something or other." They always refuse to alter them, he said, "holding

to the first draft in the tenacity of Carl, Coy, Goy, and Gross Banks of their own ignorance."
Senator Norbeck, Republican, North son Hensley, his son Eugene Heasley, and daughter, Mrs. Prudence Banks, Dakota took issue with Mr. Reed, declaring that in delegating authority the Congress merely was attempting to give

flexibility to its laws. The committee heard testimony today gainst the bill by B. L. Hargis, presi dent of the Kansas City Board of Trade, Bysg of Vimy, as Governor General of who contended that changes proposed in Canada in succession to the Duke of the marketing system would limit the market and make price fluctuations greater in scope and therefore a menaco

to producers. PEACE BY RESOLUTION **ENDORSED BY COMMITTEE**

Washington, June 3,-By a straight party vote the House foreign affairs committee reported today the Porter peace resolution, providing for termination of the state of war between the key, was acquitted in the Assize Court United States and Germany and Austria-Hungary. Democratic members of the committee opposed it and announced that their fight would be shifted to the

floor of the House.

Representatie Mondell, of Wyoming, the Republican leader, informed the House that the resolution would be called up Thursday. Backed by the full Republican strength of the mittee, leaders declared it would be

dopted probably that day. On the proposal to report the Porter measure in place of the Knox resolution aling the declaration of war, which has been passed by the Senate, the Re-publican members of the committee voted solidly in the affirmative. The

Democrats merely voted "present." ing Democrat, was instructed by minority members to file a minority report.

Democratic leaders said there would be almost a full party vote against the res-

DOUBLE BARRELED REQUEST TO KEEP

Senator Kenyon Bitterly De-nounces Management of lotte Mills Sends Two Delegations To City

> ASK COMMISSIONERS TO SEE THAT LAW OBEYED

Mill Owners Object To Picketing and Strikers Protest By Workers Within Mill Commissioner Gives Advice and Policemen Put On Duty

Charlotte, June 3 .- There was some trouble today at the Savona Mill which resulted in a delegation of strikers and officials of the company appearing be fore the city commissioners to ask for protection. Picketing of the mill has been going on because a certain per centage of the operatives are not mem bers of the textile union and did not walk out.

The mill is said to employ about 200 people, and it is estimated that from 20 to 50 per cent remained in the mill. When the picketing was ordered Thomas McMahon, vice president of the American Textile Workers, who is here, stated that the picketing would be peaceful and within the law in that moral suasion but no physical violence would be used.

Both Sides Want Protection The officials requested that police men be stationed about the mill continuously. They told of threats of strikers to dynamits the building, cut the belting and damage the machinery and of efforts to intimidate workers. The strikers protested against the carrying of pistols by workers within the mills, the use of profanity by overseers and others and expressed fear that unless those within the mills ceased efforts to molest strikers who had assembled out side the fence encircling the company property trouble might occur.

The company officials claimed that several men were gathered about the when the workers reported for duty this morning and that two or three clashes occurred. They charged that peaceful picketing was not taking place, rather that strikers were attempting to use physical force to keep men and women from going into the mill. Con-sequently the officials said, several workers failed to appear during the

merning.
The strikers contended that they had the privilege of remaining about the mills as long as they engaged in peace-ful picketing, and that employes of the mill had attempted to run them away. They placed the number gathered about the mill at about 150.

Huneycutt Counsels Workers Public Safety Commissioner J. E. Huneycutt advised the strikers to get away from the mill property. He suggested that they appoint a committee to call at the homes of the workers and the strikers desired such action.

"But, the workres will not listen to committee," the strikers protested. In that event Mr. Huneycutt told them they were at their row's end, as forceful methods could not be inausnarl on the subject of delegation of gurated to keep workers from engaging in chosen tasks.

The strikers would not promise Mr. Huneycutt to disperse, claiming the privilege of remaining about the place as long as they did not go on the ompany's property.

Mr. Huneyout spoke to the delegation for perhaps 15 minutes, advising the members to get away from the mills and go to their homes, contending that nothing would be gained by congrega-ting about the mill. Any trouble which might occur while they were about the mill would be liable to create public sentiment against them, adding that: "Boys, if, you get public sentiment

against you, you are lost."

To Continue Picketing

The strikers indicated the determina tion to continue their "picketing" about the mill, and asked that the commissioners instruct the policemen to arrest all persons found carrying pistols. They ontended that they did not desire any trouble during the strike ...

The commissioners instructed Chief Walter R. Orr to give special attention to the situation and to arrest all persons on eiher side found violating the law. The strikers charged that policemen failed to arrest two or three ersons whom they saw engage in unawful acts.

Policemen will be stationed at the mill at intervals, during the hours employes arrive at and leave the mills, to insure the maintenance of law and order, it is announced.

MeMAHON OUTLINES VIEWS OF THE STRIKING EMPLOYES Charlotte, June 3 .- Thomas McMaon, vice-president of the United Tex-

tile Workers of America, asked today (Continued on page four.)

How to insure increased earning

Increased Income

power-added income for the in

dividual or the household?

It's an important question with

many, and the solving of the prob lem means being alive to the op-portunities of the Want Ad Columns. The Want Ads point to chances for gainful buying and selling rent ing, hiring and all the other es-sentials of home and business life.

The Want Ads lead to employment of spare time in extra earning, the renting of a room, the securing of better jobs, and many other ways of supplementing the income.

To insure greater resources,

TELEPHONE RATES PAST AND PRESENT IN NORTH CAROLINA EXCHANGES

The effect of increased rates for telephone service, authorized by the Corporation Commission is shown in the following table, representing the rates in 1918, in 1921, the new rate and the rate asked for by the Telephone Company for business and residential telephones, in nine representative North Carolina cities and towns:

191	18	1921		New Rate		Asked For	
Exchanges Bus.	Res.	Bus.	Res.	Bus	Res.	Bus.	Res.
Baleigh\$4.00	\$2.50	\$5.00	\$3.00	\$5,50	\$3.25	\$6.25	\$3.75
Wilmington . 4.00	2.50	5.00	3.00	5.50	3.25	6.23	3.75
Burlington 3.50	2.00	4.00	2.50	4.40	2.75	5.00	3.10
Selma 3.00	2.00	3.25	2,00	3.75	2.25	3.90	2.40
Goldsboro 3.00	2.00	4.00	2.00	4.40	2.25	5.00	3,10
Charlotte 4.00	2.50	5.50	3.25	6.00	4.15	6.60	3.90
Wendell 2.50	2.00	3.00	2.00	3.30	2.25	3.60	2,40
Zebulon 2.50	2.00	3,00	2,00	3.30	2.25	3.60	2.40
Hamlet 2.50	2.00	8.50	2.25	3.85	2.50	4.55	2.90
2011			-				

Against Carrying of Pistols Blanket Increase Is Allowed In Telephone Rate Petition

Ten Per Cent for Business HARRIS IS LOSER Phones and 25 Cents for Residence Phones

EXCHANGES IN 28 CITIES ARE INCLUDED IN LIST

Chairman Lee Dissents, Desiring To Allow Rate and See How It Works

Blanket increase of 25 cents per aonth on every residence telephone in North Carolina and a ten per cent increase on business telephones, with maximum of 50 cents and a minimum of 25 cents was ordered by the Corpo ration Commission yesterday in the pe tion of the Southern Bell Telephone company. Chairman Lee, of the Com-mission, dissented from the opinion in favor of a higher rate.

Approximately 25 per cent increase was asked for by the petitioning subsid iary of the American Telephone and Telegraph Company on the grounds that its revenues were not sufficient to maintain and operate its properties in North Carolina. The order terday is temporary, and the case re-mains on the docket for such further action as may be deemed proper in the face of semi-annual reports required to be filed by the petitioner.

Denying the petitioner's full in-crease, the order sets forth that the telephone company's "expenditure for repairs in 1920 was more than an average necessary for this purpose; its reserve for depreciation is excessive, and its division of tolls is inndequate." The increase allowed is tentative, and may be amended either upward or down ward in the discretion of the Commis Lee Wants Full Incre

Chairman Lee wanted to give the full increase asked for and see how it work-ed out, according to his dissent from the order. If the company then made more money than it ought to make, the rates would be summarily reduced. He objected also to the blanket increase in all residence telephones, holding that the size of the exchange and the extent of the service rendered govern the rate to be charged for the

Relations between the holding com Telegraph Co., which exercises a monopoly over most of the telephone service in the United States is discussed at several thousand words' length in the order, together with a recitation of the petitioner's contention that it has lost noney through its operaions under old rate and is unable to extend the service required in the State.

Against the poverty-stroicken condition of the petitioner is set forth the opulence of the company that holds all of its stock, and is enabled to increase its net dividend in a lean year like 1920 from eight to nine per to extend its surplus to nearly a hun-dred million dellars. The subsidiary company pays first to the holding com-pany 4 1-2 per cent of all its gross revennes, and out of the balance, if any, conducts its business and extends its

A. T. and T. Co. Takes Profits. Divested of the many words in which it is set forth, it appears that the Southern Bell Telephone Company does all the work and the American Telephone and Telegraph Company takes he profits. The petitioner, finding it inconvenient to extend its service with the money left after paying the holding company. On record now, it is set forth, there are applications for new telephones costing \$428,000 in North Carolina. With dividends reduced to less than four per cent, it finds investors shy of putting their money in the

·Closely related to the petition is the question of whether the subsidiary company gets its fair share of the tolls charged on long distance telephone calls. The holding company owns the long distance lines. Last year in the 28 exchanges in the State \$150,885 was collected for long distance messages. Al-though the local exchanges did all the work they got only \$18,992. of the money went to the holding com-

"We are denying the right of the parent company to place upon the local service an undue proportion of the burden and expense of developing and operating the long distance business," says the order "to use the local property in this service without compensation, and to drain the subsidiary company of its rightful revenue from this service, and to keep it clothed in poor raiment to present its appeal for large increase in local rates, while the party in interest is increasing its dividends and its reserves and its sur-

Must Credit More Revenue.

"The petitioner itself does not exlude the North Carolina proportion of its tolls over its own interstate lines, and if it insists upon excluding from consideration the business it develops and handles, almost without compensa tion for its parent company, it must first credit itself with a fair proportion of that revenue for the property which

(Continued on page four.)

IN SUPREME COURT

Supreme Court Refuses New Trial By Vote of Three To Two

Splitting sharpely three to two, the Supreme Court yesterday found no error in the trial and conviction of J. T. Harris, merchant of Ridgecrest sentenced to be electrocuted for the murder of F. W. Monnish, of Alabama. The Harris defense relied upon the plea of insanity and the only hope left new is n a commutation of sentence at the hands of Governor Cameron Morrison.

Chief Justice Walter Clark wrote the pinion of the court finding no error in the trial of the case before Judge B. F. Long, but Associate Justice W. P. Stacy a dissenting opinion in which Associate Justice Hoke concurred.

The evidence of the State was that on September 3, 1920 Harris lay in wait for Monnish near a path leading from the cottage of the latter to the post-office and wifh a shot gun fired two charges at Monnish as he passed by. Monnish died on a train as he was being carried to Asheville. The killing was admitted and the State contende from the evidence of tracks leading from the defendant's store to the spot from which he fired the shots, the trampled condition of the ground thereabouts that the killing was wilful, de-liberate and premediated. The State further maintained that the motive for the killing lay in the fact that Mounish was aware that Harris was furnishing sugar and mesi to persons engaged in illicit distilling and had made remarks or had given informatino to this effect.

The defense relied solely upon the plea that at the time of the kill he was insane and not legally responsible for his act and that his special delusion was that Monnish had seduced his wife. Defense Not Prejudiced

Chief Justice Clark held that the interests of the defendant were not pre-judiced by the examination of a State's witness out of time and his excuse in presence of a lawful quorum and a order that he might eatch a train in answer to a pressing summons from his wife in New Hampshire. He maintained that the prisoner was pumped dry by the hypothetical questions asked by the State and defense and that "it is very certain that the able and conscientious counsel for the prisoner would not under any circumstances have consented as they did, for the witness to leave" if questions which they alleged were omitted, were vital. Further, the Chief Justice maintains

that the court was duly diligent in excluding from the record references to the absnce of the plaintiff's wife from the court and her failure to testify. As to the third exception that the

court failed to make a formal orde continuing the trial after the expiration of the term of court by limitation, the Chief Justice holds that the statute was complied with by the daily entries on

In the argument before the Suprem-Court, counsel for prisoner insisted that there had been an abuse of privilege by counsel for the State in the argument of the case. But there is no exceptional or assignment of error in the record sent up. But following the writ of certiorari, duly returned by the trial Judge but its contents did not show abuse of privilege. Must Be In Record

"The uniform authorities are," the court concludes, "that no exceptions will be considered by this court on appeal which are not set out in the record as being taken at the time (save only to the charge) and further are duly assigned as error. There was no exception and no assignment of error to the alleged abuse of privilege by coun-sel. It is a settled ruling of the courts. that an objection to the language of counsel as an abuse of privilege must be taken at the time or exception is The presiding judge case finds as a fact that no exception to the language of counsel was made and that he never heard of any exception until four months after the trie ned then only upon making up the statement on appeal.

Dissenting Opinion Dissenting from the opinion of the majority of the court, Justice W. P. Stacy, with Justice Hoke concurring. differed sharply with the opinion of the Chief Justice at every turn.

As to the first exception noted by the defense in the examoution of the expert Dr. W. D. Hilliard put on by the State to testify that the defendant was not insane, Justice Stacy, reasoned that the rights of the defense had been in-

to a denial of his rights," said he, as amended by the Revaluation Act,

(Continued on page four.)

BY SUPREME COUR

Unconstitutional By Reason of Defective Record of Senate Journal

MUNICIPALITIES MAY ASK FOR SPECIAL SESSION

Test Case Brought By City of Raleigh; the Supreme Court Holds That Consolidated Statutes as Amended By Revaluation Act Prevail in Municipal Finance

Holding the Municipal Finance Act of 1921 unconstitutional by reason of the defective record in the Senate the defective record in the Senate
Journal of the vote by which the measure passed its third rending as amended, the Supreme Court yesterday specified that the existent law of municipal
finance is that contained in the Consolidated States as amended by the Revaluation Act of 1919.

The decision of the court in the test
case brought by the city of Raleigh to
test the constitutionality of the statute
questioned by the Atterney General

questioned by the Attorney General. leaves the municipalities of the State helpless according to Mayor T. B. El-dridge of the city of Raleigh. As a result, it is almost certain that the Mu-nicipal Association will appeal to Gov-ernor Cameron Morrison to call a spe-cial session to afford relief.

In An Agreed Case.

Following a meeting of the executive committee of the municipal association and pursuant to an agreement of this body, the action was brought in order that the court might pass on the valid-ity of the act which the Attorney General had construed as inoperative. The Commissioners of Raleigh levied taxes and authorized bond issues un ler the 1921 act, and Dan Allen for himself and other citizens brought a suit to enjoin the commissioners against the evy of the tax and the issuance of bonds, alleging the unconstitutionality of the act. The matter was heard before Judge Connor who allowed the fore Judge Connor who allowed the in-junction. A quick appeal got the mat-ter into the Supreme Court for argu-ment at the end of the Spring calen-dar and the court yesterday affirmed Judge Connor and further set forth in detail the controlling laws for munici-

pal financ Justice Hoke, writing the opinion of the court, reverts to the Constitutional requirement for the passage of measures involving the taxing powers of the State or the pledging of the State's credit. The requirement is that the bill must be read three several times in each house, must pass three several readings on three separate days and the yeas and mays on the second and third reading must be entered on the

journal. Journals Must Show Vote.

"This provision of our organic law,"
says Justice Hoke, "said in some of the cases to have been established with a view of obtaining more careful delibproper placing of responsibility, has been very insistently enforced by the courts and in various decisions constru ing the Section it has been held that the provisions are mandatory, that the journals of each house respeford the only competent and sufficient evidence as to the procedure in a given case and unless it affirmatively appears from these journals that the Constitutional requirements have

be invalid." According to the facts in the case the measure in question was passed three times and its pessage was prop-erly recorded, but the vote by which it passed its third reading was recon-sidered, an amendment was adopted concurred in by the House but no third reading of the bill was afterwards had, on which the yeas and nays were entered in the Senate Journal.
"It thus appears," argues Justice third reading of this bill in the Senate

complied with, the statute, in so far as

it effects the specified measures must

under which the eyes and noes have been entered on the Journal and provisions of the law in question apper-taining to the incurring of indebtedness and the imposition of taxes must be held unconstitutional and void and is so whether the amendment to Statute was or was not material." The Existent Law.

Thus disposing of the 1921 Act, Justice Hoke asks, "What is the law now controlling on matters of this kind, and under such law can the proposed measure be upheld?"

The 1921 Act, he continues, preto amend and re-enact the Municipal Finance Act of the Consolidated Statutes giving increased powers to the contract ing and providing for debts and the levy of taxes. It contains the provisi that if any portion of the act should be declared invalid, it shall not effect the part that remains, but Judge Hoke maintains that it is still "subject to the recognized principle of statutory construction that when a repealing Statute is invalid, the repealing clause it-self falls with the statute of which it

is a part."

And he continues: "The portion of the Finance Act of 1921 appertaining to coetracting debts and levying taxes having been declared invalid and the general repealing clause and other portions of the law giving clear inting-tion that unless these important provis-ions should be upheld the existent law on the subject should prevail. The municipal authorities can only proceed under the law as it existed when the attempted amendment was enacted and fringed.

"The offer to supply the defect by sillowing the defendant an opportunity to take the deposition of the witness was whelly inadequate and amounted Chapter 56 Section 2918-69 inclusive and

(Continued on page four.).