

objects named.' *Opinion of the Justices*, 76 N. H. 588, 596." *Opinion of the Justices*, 82 N. H. 561, 563.

Since in our opinion the proposed tax is unconstitutional, there appears to be no occasion to answer the second and third inquiries contained in your resolution.

OLIVER W. BRANCH.
FRANCIS W. JOHNSTON.
FRANK R. KENISON.
LAURENCE I. DUNCAN.
AMOS N. BLANDIN, JR.

May 3, 1949.

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1949. } No. 3844.

OPINION OF THE JUSTICES.

The following resolution was adopted by the House of Representatives at the present session of the General Court on April 14, 1949:

"Whereas the House of Representatives has pending before it House Bill No. 320, An Act Relating to the Extermination of Wild Boars in the Counties of Sullivan and Grafton;

"And whereas wild boars were first introduced into this State by the Blue Mountain Forest Association, a business corporation, in 1895 at Corbin Park in the towns of Grantham, Cornish, Plainfield, Croydon and Newport;

"And whereas wild boar have from time to time escaped through the fence surrounding said park and have increased their number by breeding outside the park and also inside the park, entering and departing from the park freely through holes in the fences;

"And whereas said wild boars which are at large and their progeny

have caused extensive damage to the lands and crops of farmers in the area surrounding said park and are now causing such damage;

"And whereas the wild boar is not a native animal in this State in the ordinary nature of things;

"And whereas the House of Representatives desires information concerning the necessity and expediency of acting favorably upon House Bill No. 320;

"Resolved that the Justices of the Supreme Court be respectfully requested to give their opinion upon the following questions of law:

"1. Is the Blue Mountain Forest Association liable by any action at common law to the owners of farm lands who have suffered damage as a result of the depredations of these wild boars?

"2. Must negligence on the part of said Forest Association be proved in such cases in order to establish liability?

"3. Are there any circumstances limiting the liability of said Forest Association, provided the answer to the first question is in the affirmative?

"Further resolved that the Speaker transmit a copy of this Resolution and of House Bill No. 320 to the Clerk of the Supreme Court for consideration by the Justices of said Court."

The following answer was returned:

To the House of Representatives:

The undersigned the Justices of the Supreme Court make answer as follows to the inquiries contained in your resolution with reference to House Bill number 320 entitled "An act relating to the extermination of wild boars in the counties of Sullivan and Grafton."

In the *Opinion of the Justices*, 67 N. H. 600, the Governor and Council were advised that, "The authority of either branch of the legislature and of the governor and council, under *art. 73* of the constitution, to require the opinions of the justices of the superior court does not apply to questions not touching the power or duty of the body asking." In the *Opinion of the Justices*, 62 N. H. 704, the Governor and Council were advised that "The 74th article of the constitution, authorizing each branch of the legislature, as well as the governor and council, to require the opinions of the justices of the superior court upon important questions of law and upon solemn occasions, does not authorize a requisition for advice on a question affecting private rights alone on which interested persons are entitled

to be heard." To the same effect is the *Opinion of the Justices*, 70 N. H. 638.

In our opinion the questions contained in your resolution are in conflict with both of the foregoing principles. 1. They are not questions directly involving the power or duty of the House of Representatives. 2. They are questions of law affecting private rights alone on which interested persons are entitled to be heard.

For these reasons we respectfully request that we be excused from answering the questions contained in your resolution.

OLIVER W. BRANCH.
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