

## *Stop New Hampshire From Acting Like Washington DC Constitution? - Oath of Office?*

For some time we've had, shall we say, a 'problem' with Concord's diverting state highway funds to their pet projects. The diversion of these funds is against the Law; in fact, it's blatantly in violation of directly applicable wording of our Constitution, unfortunately, the legislature in Concord doesn't, apparently, read our Constitution or understand the English language sufficiently (or care) because they just approved more diversions without regard to it and ignore the problem when they're handed the text and section of the Constitution they're violating for them to look at.

The fund that the government is raiding is covered (and "Restricted") in our Constitution here:

**"[Art.] 6-a. [Use of Certain Revenues Restricted to Highways.]**

*All revenue in excess of the necessary cost of collection and administration accruing to the state from \*registration fees\*, operators' licenses, gasoline road tolls or any other special charges or taxes with respect to the operation of motor vehicles or the sale or consumption of motor vehicle fuels shall be appropriated and used exclusively for the construction, reconstruction and maintenance of public highways within this state, including the supervision of traffic thereon and payment of the interest and principal of obligations incurred for said purposes; and \*no part\* of such revenues shall, by transfer of funds or otherwise, be diverted to any other purpose whatsoever."*

This illegality was pointed out here: <http://www.nhexecutivecouncil.com/lchip.htm> with regard to their handing over funds to the private, non-profit corporation LCHIP and got not even a hint of a reaction. Getting no reaction, (being ignored by our 'representative government') seems par for the course, so we started wondering if our Law (Title VI, Chapter 92 of our RSAs) which states in part "*any such person who violates said oath after taking the same shall be forthwith dismissed from the office or position involved.*" might, if they became aware of **that**, prompt them to sit up and take notice that the disregard of our Constitution might actually cost them their jobs. So we specifically asked our government (through the NH Executive Council site) how we Citizens could use this Law, were we to find one of our employees violating their Oath. That question was ignored as well. The question was presented a second time, this time

hard copies were handed directly to Executive Councilors who themselves asked our current Attorney General. Again, the question was ignored as readily as Article 6-a. Zip, nada, not a peep from the powers-that-be. What a surprise, eh? It appear we have a 'Right' to petition government but, they have no requirement to actually 'answer us'.

Recently, the legislature decided (again) without the least concern for Article 6-a, to divert more of these "restricted" funds (beyond the regularly diverted payouts to LCHIP). This time Concord sent a piece of legislation diverting funds to a well connected internet marketing firm and before the item came to a vote within the Executive Council, on November 30th, another giveaway arrived diverting further "restricted" funds to a New Hampshire town. I guess the funds "restricted" in our Constitution's Article 6-a for use repairing our roads and bridges can be used for just about anything the folks in Concord need or want.

If we leave aside the concern over breaching our Constitution (a minor issue, apparently), our Laws and, essentially, the theft of revenue, what makes the diversion of these funds from their Constitutionally 'mandated' usage incongruous is that WMUR says (<http://www.wmur.com/r/23979379/detail.html>) "*One-third of New Hampshire's major roads are deteriorated and almost one-third of the state's bridges are structurally deficient or functionally obsolete, but the state doesn't have the funding to fix them*" The Union Leader says (<http://www.unionleader.com/article/20110902/NEWS/709029999>) that a recent report stated: "*New Hampshire ninth-worst in the country for the poor condition of its rural roads, and 11th-worst for deficient rural bridges, comes several days after some bridges and roads were destroyed by Tropical Storm Irene.*" The Department of Transportation's spokesman Bill Boynton was quoted as saying: "*Maintaining the existing system and the red-list bridges are the top priorities. We started to catch up with the stimulus money; unfortunately, we need about 10 years of that funding to get where we want to be.*" Any wonder DOT can't fund the repair of "red-list bridges" ([http://www.nh.gov/dot/org/projectdevelopment/planning/typ/documents/03\\_Br\\_State\\_All\\_11-20.pdf](http://www.nh.gov/dot/org/projectdevelopment/planning/typ/documents/03_Br_State_All_11-20.pdf)) when your legislature, Council and governor are giving the funds specifically intended for their repairs to private corporations, internet advertising firms and towns that ask for it?

So, at the Executive Council meeting on November 30th they were presented with this:

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It's interesting that there seems to be a question of 'interpretation' of

our Constitution with regard to using funds derived from the sale of conservation license plates to purposes other than public highways.

Our Constitution reads:

*“All revenue ... accruing to the state from registration fees, or taxes with respect to the operation of motor vehicles ... shall be appropriated and used exclusively for the construction, reconstruction and maintenance of public highways within this state and no part of such revenues shall, by transfer of funds or otherwise, be diverted to any other purpose whatsoever.”*

The bill in question, diverts up to one hundred thousand dollars from highways (in this latest legislation) to an internet marketing company known as Act One. I wonder what the bill’s ‘intent’ or the legislature’s ‘intent’ has to do with the question at hand which is can funds be lawfully diverted from the construction, reconstruction and maintenance of public highways within this state?

Our Constitution’s wording is simple and clear. The words are not ‘terms of law’ but rather mean what they say. Are words like “*all*” and “*exclusively*” and “*no part...diverted*” hard to understand? The revenue generated from the use of motor vehicles are to be used for highways and “*no part of such revenues shall, by transfer of funds or otherwise, be diverted to any other purpose whatsoever*” isn’t even remotely open to interpretation.

A former, rather well known, New Hampshire citizen named Daniel Webster once said:

“Good intentions will always be pleaded for every assumption of authority. It is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions. There are men in all ages who mean to govern well, but they mean to govern. They promise to be good masters, but they mean to be masters.”

Should we care what the “intentions” of the legislature or even the Executive Council are when their “intentions” are in clear violation of the

precise wording of our Constitution? These people, prove by their votes whether they, in fact, "***bear true faith***" to our Constitution or whether they are willing to violate it for their "good intentions".

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This, apparently gave a couple of the Councilors pause since they (at least) requested a formal opinion from the Attorney General's representative 'if' the Constitution really 'means' what it says before they vote to divert more highway funds to the legislature's pet programs and friends. Of course, to date, the AG hasn't responded, just as he never responded to the question on Title VI, Chapter 92.

We still haven't found any record of a Constitutional Amendment negating Article 6-a making the diversion of these funds lawful, thus we conclude those deciding and/or voting for said diversion of funds in violation of our Constitution are in breach of their Oath of Office which, I would think would expose them to Title VI, Chapter 92 wherein "***any such person who violates said oath after taking the same shall be forthwith dismissed from the office or position involved.***"

So my fellow Granite Staters, when you're driving over one of the 500+ "red-listed" bridges in New Hampshire and the bridge you're on suddenly falls into the river taking your kids or the local soccer team downstream this winter, you can at least be happy that some private 501C corporation gets parts of both highway funds as well as Registry of Deeds funds and spent their 26 million dollars (since 2000) wisely. I'm quite sure the "good intentions" of your legislature, certain Councilors and your Governor, take precedent over their reading our Constitution, obeying our Laws or being true to their Oath of office. Yup, we're sure few more acres added to a conservation land bank by LCHIP will make all the difference in the world to your infant children, strapped into their car seats, floating downstream. After all, the New Hampshire Constitution was only 'kidding' when it stated those funds were **only** to be used to repair bridges and roads, right?

Or, was Daniel Webster right? That our "***Constitution was made to guard the people against the dangers of good intentions***"?