

Barry Asks Inquiry On Conflict Of Interest Question

WASHINGTON (UPI) — Should a simple change of hats be sufficient to convert Sen. Barry Goldwater and Rep. Carl Albert into Maj. Gen. Goldwater, USAF, and Col. Albert, USA?

The question involves possible conflict of interest and the meaning of the United States Constitution. Also involved are 175 other members of the House and Senate who, with Arizona's conservative Republican Goldwater and Oklahoma's House Democratic leader, have retained commissions in the armed forces reserves.



CONFLICT OF INTEREST? — U.S. Sen. Barry Goldwater (R-Ariz.), a major general in the U.S. Air Force Reserve, strolls along the Berlin Wall in this photo. The question of conflict of interest has been raised in the case of Goldwater who is also one of the top Republican presidential hopefuls for 1964. — UPI Telephoto

raises to which they may become entitled?

Asks For Inquiry
For his part Goldwater has asked the Senate Judiciary Committee to look into the whole question. In that request he has been joined by Sen. Strom Thurmond, D-S.C., who is Maj. Gen. Thurmond in the Army Reserves.

A similar study has been requested in the House by Rep. Gerald Ford, R-Mich., who recently resigned a commission as lieutenant commander in the Naval Reserve after a period of inactivity, and Rep. Richard Bolling, D-Mo., who is the holder of a commission as an Army lieutenant colonel.

Recently published newspaper stories (particularly in the Scripps Howard newspapers) have focused congressional at-

tention on the "compatibility" of congressional office and reserve military rank. However, Goldwater told the Senate recently that he has been arguing the issue with correspondents ever since he first became a senator.

Article 1 Cited
Article 1, Section 6, of the Constitution says: "No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no persons holding any office under the United States shall be a member of either House during his continuance in office."

Also under the Constitution, the Senate and House are the judges of their own members, and the rulings on members in service have been uneven over the years.

In 1861, according to Goldwater's research, the House ruled that a man was "not entitled to his seat since he was mustered into the military services of the United States." Again in 1901 reference was made to a bar against active members of the military service serving in Congress.

Seat Declared Vacant
In 1916 the House Judiciary Committee decided, after a thorough study, that seats of members of the House who accepted commissions in the National Guard (there was, then, no Reserve) would "at once become vacant."

In that 1916 report, however, the House Judiciary Committee quoted in a Supreme Court finding that federal "office" within the meaning of the Constitution involved duties which are "continuing and permanent, not occasional and temporary."

Moreover, Congress, by its own action, has provided that a member of the Reserves or the National Guard is not considered an officer of the United States even when on active duty for training purposes.

Congress also has provided specifically that members of the Guard and the Reserves can hold civilian government posts and collect pay from the federal government for both jobs.

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