

News from Senator

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FOR IMMEDIATE RELEASE
THURSDAY, APRIL 2, 1987

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REMARKS OF SENATOR BOB DOLE SDI AND THE ABM TREATY

ALONG WITH BASEBALL AND CHERRY BLOSSOMS, THIS SPRING BRINGS TO WASHINGTON A RENEWED DEBATE OVER THE PROPER INTERPRETATION OF THE ABM TREATY. WE'RE HEARING ALL KINDS OF ARGUMENTS OVER WHAT IS LEGAL AND WHAT IS NOT; WHAT IS PERMISSIBLE AND WHAT IS NOT; WHAT IS RELEVANT AND WHAT IS NOT. WE EVEN HEAR TALK OF A "CONSTITUTIONAL CRISIS."

IT'S TIME WE PUT THIS ISSUE BACK IN PERSPECTIVE. AS REPUBLICAN LEADER, I BEGIN TODAY A SERIES OF FLOOR STATEMENTS DISCUSSING THE REAL ISSUES AT STAKE, IN AN ORGANIZED AND COHERENT WAY. I AND A NUMBER OF MY COLLEAGUES -- INCLUDING SOME OF THE SENATE'S REAL EXPERTS ON STRATEGIC AFFAIRS -- WILL BE DISCUSSING THE WHOLE RANGE OF QUESTIONS INVOLVED: MILITARY, POLITICAL, LEGAL AND BUDGETARY.

SDI -- THE REAL DEBATE

MAKE NO MISTAKE ABOUT IT---THIS IS REALLY A DEBATE ON SDI; ON THE REAL, LEGAL SDI OPTIONS AVAILABLE TO THE PRESIDENT. SOME ARE RESORTING TO COMPLEX LEGAL GYMNASTICS, WITH ONLY ONE REAL RESULT: TO TIE THE PRESIDENT'S HANDS AND TO KILL SDI. ISN'T IT TIME TO END THAT KIND OF NONSENSE?

THE PRESIDENT'S RIGHTS

THE PRESIDENT IS NOT BRASHLY PUSHING ASIDE AMERICA'S TREATY OBLIGATIONS. HE IS NOT LEAPING INTO AN UNCHARTED MILITARY PROGRAM. HE IS NOT ABANDONING THE GENEVA NEGOTIATING TABLE. HE IS PROCEEDING IN THE WISEST OF WAYS TO INSURE THAT WHAT WE DO IS TECHNICALLY, LEGALLY AND STRATEGICALLY SOUND.

ON THE TECHNICAL SIDE, THE PRESIDENT HAS ASKED THE PENTAGON TO ANSWER ONE MODEST QUESTION: CAN THE SDI PROGRAM BE RE-STRUCTURED TO SAVE TIME AND MONEY, AND ALLOW US TO MAKE A SENSIBLE DEPLOYMENT DECISION WHEN THE TIME COMES? THIS SEEMS TO ME A RESPONSIBLE QUESTION.

ON THE LEGAL SIDE, SO THERE ARE NO REMAINING DOUBTS, THE PRESIDENT HAS ASKED FOR FURTHER ANALYSES, THIS TIME ON THE RECORDS OF SUBSEQUENT PRACTICE AND SENATE RATIFICATION PROCEEDINGS.

UNLIKE HIS CRITICS, THE PRESIDENT WANTS TO LOOK AT ALL THE RELEVANT INFORMATION -- NOT JUST THE PART THAT FITS OUR ARGUMENT.

THE NEGOTIATING RECORD

THE NEGOTIATING RECORD IS THE MOST LIKELY INDICATOR OF WHAT WE AND THE SOVIETS ARE MUTUALLY BOUND TO. IT SHOWS THAT THE UNITED STATES DELEGATION PROPOSED TO PROHIBIT DEVELOPMENT AND TESTING OF ABM SYSTEMS AND COMPONENTS BASED ON "OTHER PHYSICAL PRINCIPLES." THE SOVIETS REFUSED. THAT PRETTY MUCH SUMS UP WHAT THE UNITED STATES AND THE SOVIET UNION ARE MUTUALLY BOUND TO NOW.

AS FOR SUBSEQUENT PRACTICE, IT IS IMPOSSIBLE TO COMMENT NOW BECAUSE WE LACK IMPORTANT PARTS OF THE DATA. WE OUGHT TO STUDY ALL THE CONFIDENTIAL RECORDS BEFORE LECTURING THE PRESIDENT ON WHAT HE SHOULD DO.

FINALLY, I KNOW THAT SOME SENATORS ASSERT THAT THE RECORD OF SENATE RATIFICATION DEBATES HAS SOME SPECIAL LEGAL STANDING. THIS NOTION IS WRONG. WE ATTACHED NO CONDITIONS ON THE ABM TREATY, AND SINCE WE DIDN'T, INTERPRETATION FALLS TO THE PRESIDENT, PERIOD.

WHEN THE REAGAN ADMINISTRATION FIRST SPOKE OF ITS ANALYSIS OF THE ABM TREATY IN 1985, CRITICS MAINTAINED THAT THE TREATY WAS CLEAR ON ITS FACE. AS THAT NOTION ERODED, MANY FELT SURE THAT THE NEGOTIATING RECORD WOULD VINDICATE THE RESTRICTIVE INTERPRETATION. THAT DIDN'T HAPPEN. NOW THEIR FOCUS HAS SHIFTED TO THE RECORD OF SUBSEQUENT PRACTICE AND TO THE SENATE RATIFICATION PROCEEDINGS. THE INESCAPABLE CONCLUSION: THE PRESIDENT'S CRITICS ARE RETREATING !

THE BOTTOM LINE

SO WHERE DO WE STAND ? IN THE END, I DOUBT WE WILL ALL AGREE UPON ONE "CORRECT" INTERPRETATION, BUT THE REAL QUESTION IS WHETHER THE PRESIDENT HAS A LEGALLY JUSTIFIABLE OPTION TO RE-STRUCTURE THE SDI PROGRAM WITHOUT WITHDRAWING FROM THE TREATY.

I BELIEVE HE DOES. IF RESTRUCTURING SDI IS TECHNICALLY FEASIBLE AND STRATEGICALLY WISE, I BELIEVE THE PRESIDENT SHOULD HAVE THE OPTION TO PROCEED WITHOUT WITHDRAWING FROM THE ABM TREATY.

WE SHOULD ALSO BEAR IN MIND THAT THE PAINSTAKING LEGAL ANALYSIS WE ARE UNDERTAKING STANDS IN STARK CONTRAST TO SOVIET PRACTICE: THEY JUST VIOLATE THEIR TREATY OBLIGATIONS WHENEVER IT SUITS THEIR CONVENIENCE. THE BOTTOM LINE HERE IS THAT THE ABM QUESTION IS MUCH, MUCH MORE THAN A LEGAL QUESTION. IT IS A QUESTION OF AMERICA'S DEFENSE.

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