

News from Senator

BOB DOLE



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PRESIDENT ON SOLID LEGAL GROUND FOR ABM TREATY INTERPRETATION;
"CONSTITUTIONAL CONFRONTATION" CHARGE PUT TO REST

TACOMA, WASHINGTON -- In a letter to President Reagan, Senate Republican Leader Bob Dole (R-KS) said today that there is "absolutely no legal basis" to the claim that the President does not have the right to interpret the Anti-Ballistic Missile (ABM) treaty.

Following is the full text of the letter to the President:

The President
The White House
Washington

Dear Mr. President:

I want to reaffirm my strong support for aggressive research and development on the Strategic Defense Initiative, SDI, in the context of our continued adherence to the Anti-Ballistic Missile (ABM) Treaty.

In recent weeks, new attention has focused on the question of the interpretation of that Treaty. One Democratic Senator has claimed that any Treaty interpretation contrary to views expressed by individual Senators at the time the Senate provided advice and consent to ratification of the Treaty could spark a "Constitutional confrontation of profound proportions."

As you know, there is no legal basis to such a claim. Constitutional law is absolutely clear on the point: the views of the Senate on the interpretation of a treaty are legally irrelevant and in no way bind the President, unless those views were expressed (1) formally and (2) at the time of the Senate's decision to advise and consent.

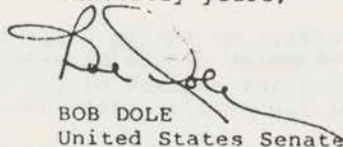
The prestigious American Law Institute, in the most recent edition of its authoritative Restatement of the Law, Foreign Relations Law of the United States, reaffirmed this proposition in a "black letter" declaration. Moreover, in its decision in the case of Fourteen Diamond Rings v. United States, the Supreme Court specifically ignored a formal expression of the Senate's interpretation of a customs agreement with the Philippines, on the grounds that the interpretation was expressed well after the act of advice and consent.

Since the Senate as a whole, at the time it provided advice and consent to ratification of the ABM Treaty, took no formal position on the meaning of Articles II and V and Agreed Statement D, as they relate to contemporary research and development of SDI, any views expressed informally by individual Senators at the time, or since, do not legally bind you.

As a practical political matter, of course, it is both proper and prudent that you consult closely with the Congress and with our Allies on matters impinging directly on the security of the country and the Free World. I know you share that view. I have also noted and welcomed recent statements by senior Administration officials reaffirming your intention to continue consulting closely with the Congress and our Allies, as decisions related to the ABM Treaty and SDI are contemplated and taken.

At the same time though, I think it is important that all of us -- especially those who have sent up the alarmist cry of a Constitutional crisis -- understand that these consultations must go forward in recognition of the fact that we have only one President. Under the law and in the circumstances that prevail, the final decision on interpreting the ABM Treaty is the President's alone.

Sincerely yours,



BOB DOLE
United States Senate

MEDIA ADVISORY

Senator Dole will speak on the ABM treaty issue during Tacoma, Washington's Pierce County Lincoln Day Dinner this evening, 7:30 p.m. (PST) at the Bi-Centennial Pavilion at the Sheraton Tacoma Hotel (206/572-3200).