to the cleansing legislative process, in which the American people expect public hearings, open and full debate, a committee amendment process, and a meaningful opportunity to make specific changes to the legislation.

At each of these normal checkpoints of legislative procedure, the public and their elected representatives were denied the opportunity to participate fully in the legislative process, to offer and debate amendments and vote on them to produce a legislative output that hopefully reflects a solid consensus, or, at least, the end result of a democratic process.

Instead, we are engaged in a debate without the opportunity to make substantive and necessary changes to either piece of legislation through floor amendments, and we will be compelled to vote these competing measures either up or down without meaningful change.

Given the opportunity, I would have preferred that both bills be neutral on the issues of abortion and assisted suicide.

While there has been a good faith attempt in the Dingell/Ganske legislation to address these two matters, I strongly believe that the language on such issues must be so clear as to withstand judicial scutiny that health care plans are not required to provide assisted suicide or abortion services.

Given the opportunity, I would have offered the following language that would achieve this important objective:

Amend Section 108 and 109 of H.R. 3605 by adding the following new subsection (c):

''(c) Nothing in this Act shall be construed as requiring a group health plan or health insurance coverage to provide, pay for, refer for, or ensure the availability of or access to any benefit or service, including the use of facilities, related to an abortion or any item or service for which use of Federal funds is prohibited under the Assisted Suicide Funding Restriction Act of 1997. Nothing in the preceding sentence shall be construed as allowing a group health plan or health insurance converge to deny any benefit or service related to treatment for medical complications resulting from an abortion.''

Amend Section 141 of H.R. 3605 by adding the following new subsection (b)(3):

''(b)(3) Nothing in this Act shall be construed to cause a group health plan or health insurance issuer to violate its ethical, moral or religious benefits.''

I have been assured by the distinguished gentleman from Michigan, Mr. DINGELL, the Ranking Democrat of the Commerce Committee, that it is his intent that the legislative history should reflect that his legislation seeks to be neutral on these two issues.

With that statement of legislative intent, I plan to support the Dingell/Ganske substitute.

I want to make it clear on this point that I will seek inclusion of the legislative language that I have just referenced in any further managed care legislation that this Congress may consider.

CHILD NUTRITION AND WIC REAUTHORIZATION AMENDMENTS OF 1998

SPEECH OF

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1998

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today in strong support of H.R. 3874, the Child Nutrition and WIC Reauthorization Act. This bill gives our states more opportunity to fight against a problem that plagues our nation even in these prosperous times—child hunger.

This bill is linked to almost every issue we struggle with on this House floor. Every year, we discover stronger links between child nutrition and all the indicators of a child's future. Better nutrition means better learning, better test scores, better health, better discipline.

But child hunger is alive and well in America. I've traveled all over my home state of Massachusetts hearing about how and why children go without adequate nutrition. And I've heard about the safety net that keeps many of our kids from going hungry—healthy meals at school, after school, and at summer feeding sites.

We can protect our children from hunger. We can guarantee that every child has an opportunity to get good quality nutrition year round. This bill doesn't do everything I'd like, but it takes big steps in the right direction.

This bill would allow more of our states to experiment with universal free breakfast. In districts that have tried free breakfast—in Philadelphia, Baltimore, and parts of Minnesota—more kids are showing up for breakfast, kids are doing better in school, and kids are behaving better.

This bill allows more sites to participate in the summer feeding service, and makes it easier for the states to administer those programs. It allows more schools to use federal funds to serve meals at after-school programs. And it allows teenage children to get free after-school snacks in low-income communities.

Mr. Speaker, this bill not only provides more meals for more children, but it makes it easier for the states to use federal money in their own efforts to fight child hunger. I strongly urge my colleagues to support this bill.

WAXMAN AMENDMENT REMARKS

SPEECH OF

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. SCHUMER. Mr. Chairman, I rise in support of the Waxman amendment.

The Hudson River is drowning and we need to throw it a life jacket.

It is time to put an end to Congress's interference in the cleaning up of our communities and eliminate the alarming language attached to the VA–HUD appropriations report that will suffocate public health and bulldoze environmental protections.

It is time to demand of our federal government that they not kowtow to big companies like General Electric, big companies who need to start taking responsibility for the deleterious effect their factories are having on our society.

The Hudson River is now contaminated with toxic PCBs—one of the most harmful pollutants known, in large part because General Electric and other companies allowed these dangerous poisons to seep into our waterways.

General Electric maintains that the PCBs are entombed under silt—that the river is cleaning itself. Today there is new evidence that the situation is worse than our worst nightmare. PCBs are escaping from the sediments in the Hudson River and are being carried downstream and settling in other parts of the river contaminating more and more fish and more and more people.

The New York regional administrator of the EPA stated today that ''the fact that these PCBs are so rapidly reentering the river system is startling. Given what we know about the health risks of eating contaminated fish, this information is even more startling.''

Based upon all of the evidence, the EPA is convinced, and so am I, that PCB contamination is a significant threat to public health and the environment.

How much more evidence do we need? How many more experts need to tell us that something needs to be done? How many more New Yorkers need to suffer from immediate and long-term health problems posed by toxic PCB pollution?

Mr. Chairman, we need to dredge the polluted waters of the Hudson and we need to do it now. New York City is built on islands surrounding water, water which cannot be utilized to its fullest potential because of the lethal levels of contaminants. We need to seize this moment and make a last ditch effort to clean up the Hudson River waterfront and make it the jewel it once was.

It is imperative that the Hudson not be sent down the river and New Yorkers not be forced to walk the plank.

Support the Waxman amendment. Eliminate these dangerous riders.

U.N. DUES ARE A LEGAL OBLIGATION

HON. LEE HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. HAMILTON. Mr. Speaker, some observers have argued that we do not owe to the United Nations the dues we have been assessed by that organization. I would like to set the record straight.

I recently posed a series of questions to the Department of State regarding the nature of our international legal obligations to the United Nations. The reply I received to those questions indicates that while Congress can refuse to pay the bills we owe, that in no way relieves our responsibility to pay those bills.

I ask permission to include in the RECORD my correspondence with the Department of State on this subject, and encourage my colleagues to review it.

DEPARTMENT OF STATE,
Washington, DC, July 8, 1998.

Hon. LEE H. HAMILTON
House of Representatives

DEAR MR. HAMILTON: Thank you for your letter of May 15, raising several important

questions regarding the character and extent of the obligations of the United States under international law to pay amounts assessed by the United Nations.

The Office of the Legal Adviser has prepared the enclosed document, which responds to your questions.

Please let us know if we can provide further information.

Sincerely,

BARBARA LARKIN,
Assistant Secretary,
Legislative Affairs.

Enclosure: As stated.

RESPONSE TO REPRESENTATIVE HAMILTON'S QUESTIONS REGARDING THE STATUS OF UNITED STATES DUES TO THE UNITED NATIONS

(1) On what basis does the United States owe money to the United Nations?

In what document does the obligation arise?

Does Article 17 of the United Nations Charter, which states ''the expenses of the Organization shall be borne by the Members as apportioned by the General Assembly,'' impose a treaty obligation?

From a legal perspective, how does Congress' power of the purse under the Constitution square with any legal obligation to pay dues to the United Nations?

When a treaty and a law conflict, which prevails?

Does the power of Congress to withhold funds release it from treaty obligations to pay dues?

Does the lack of an enforcement mechanism on the part of the United Nations to compel payment nullify any legal U.S. obligation to pay dues to that institution?

Answer: The international legal obligation to pay such assessments arises under the United Nations Charter, a treaty made with the advice and consent of the Senate. The Charter is binding on the United States under international law. Article 17(2) of the Charter states that: ''The expenses of the Organization *shall be borne by the Members* as apportioned by the General Assembly'' (emphasis added). The consistent position of the United States has been that Article 17 creates an obligation under international law to pay amounts assessed by the United Nations. While any particular assessment is not itself a treaty, it is made pursuant to treaty (the Charter), and legal obligation to pay it derives from that treaty.

In the early 1960's, when the former Soviet Union, France and some other States refused to pay assessments for Congo and Mid-East peacekeeping operations, the United States insisted that they had an obligation to do so under international law. The United States at that time said that:

The language of the provision [Article 17(2)] is mandatory: expenses ''*shall* be borne.'' (Emphasis added.) Accordingly, the General Assembly's adoption and apportionment of the Organization's expenses create a binding international legal obligation on the part of States Members to pay their assessed shares.

The history of the drafting of Article 17(2) demonstrates that it was the design of the authors of the Organization's constitution that the membership be legally bound to pay apportioned expenses.

Written Statement of the United States, at 193, *I.C.J. Pleadings, Certain Expenses of the United Nations (Article 17, paragraph 2, of the Chapter*) (1962). When the International Court of Justice gave an advisory opinion affirming the international legal obligation to pay such assessments in the *Certain Assessments* case, Congress passed a resolution expressing its satisfaction with the International Court of Justice's opinion, 22 U.S.C. 287k, and a resolution calling on the United Nations to take ''immediate steps to give effect'' to the Court's opinion. 22 U.S.C. 2871.

This has remained the consistent legal position of the United States and has been reaffirmed by successive administrations. For example, a 1978 published opinion of the State Department's Legal Adviser reiterated that Article 17(2) of the United Nations Charter imposes a legally binding obligation on Member States to pay the amount assessed to them by the General Assembly. Nash, *Digest of United States Practice in International Law 1979*, 225 (1979).

While nothing in the Constitution compels the Congress to refrain from passing a law inconsistent with an existing international legal obligation of the United States, U.S. courts when faced with a conflict have—as a matter of domestic law—applied the later-in-time rule. Thus, Congress can, as a matter of U.S. law, decline to appropriate amounts sufficient to pay United States assessments made pursuant to Article 17 of the Charter. However, such action by Congress does not relieve the United States of its responsibility under international law. Instead, the failure to pay renders the United States in breach of its international obligations.

Article 19 of the Charter establishes that, where a Member of the United Nations is two years in arrears in paying its financial contributions, it shall lose its vote in the General Assembly. The United Nations Secretariat determines when a State is two years in arrears such that this sanction applies. No vote of the General Assembly is involved. Indeed, the United States has insisted that Article 19 should operate automatically and without a vote or other implementing action by the General Assembly.

(2) A portion of the arrears owed by the United States to the United Nations result from ''policy withholdings'' by the executive branch, not legislatively mandated withholdings. In addition, the Administration has recognized, through seeking the creation of a ''contested arrear'' account, that we simply intend to ''write off'' some $400 million in arrears to the U.N.

Why does this portion of U.S. arrears not constitute a legal treaty obligation?

By what rationale do we argue that some arrears are legally binding and others are not?

Do past U.N. actions in suspending the requirement for payment of arrears by other countries provide a precedent for our arguments?

Answer: As your letter notes, the United States has not paid certain assessments because of differences with the United Nations regarding matters of policy. A significant amount of these non-payments reflects an ongoing dispute between the United States and the United Nations as to the specific amounts that the United States is to provide with respect to certain tax reimbursements. Other non-payments reflect policy differences regarding particular UN programs or actions. Some of these ''policy withholdings'' have been implemented by the Executive Branch. Others, such as the 25% ceiling on the amount the United States will pay for peacekeeping operations, arise under statute. Whatever their policy justification, these withholdings do not relieve the United States of its continuing international legal obligation to pay the amount assessed.

(3) What are the legal consequences of our failure to pay our arrears?

Who determines what the U.S. legal obligation is, the U.S. or the U.N.?

Answer: The only legal sanction for failure to pay arrears specified in the Charter is the loss of vote under Article 19, as previously mentioned. Some governments have urged that the United Nations adopt additional measures to sanction countries that are significantly in arrears, such as limitations on procurement or on recruitment of their nationals. The United States has opposed all of these proposals. Thus far, none has been adopted. However, sustained U.S. non-payment of its assessments has lead to growing criticism that the United States does not abide by international law.

COMMITTEE ON
INTERNATIONAL RELATIONS,
Washington, DC, May 15, 1998.

Hon. MADELEINE K. ALBRIGHT,
Secretary of State, Department of State, Washington, DC.

DEAR MADAM SECRETARY: I want to ask clarification of the status of United States dues to the United Nations.

Some commentators have suggested increasingly that the United States may not be obligated legally to pay its assessed dues to the United Nations. The Administration has stressed that these dues are international legal treaty obligations of the United States. I would appreciate answers to the following questions, in hopes of clarifying discussion of this issue.

(1) On what legal basis does the United States owe money to the United Nations?

In what document does the obligation arise?

Does Article 17 of the United Nations Charter, which states ''the expenses of the Organization shall be borne by the Members as apportioned by the General Assembly,'' impose a treaty obligation?

From a legal perspective, how does Congress' power of the purse under the Constitution square with any legal obligation to pay dues to the United Nations?

When a treaty and a law conflict, which prevails?

Does the power of Congress to withhold funds release it from treaty obligations to pay dues?

Does the lack of an enforcement mechanism on the part of the United Nations to compel payment nullify any legal U.S. obligation to pay dues to that institution?

(2) A portion of the arrears owed by the United States to the United Nations result from ''policy withholdings'' by the executive branch, not legislatively mandated withholdings. In addition, the Administration has recognized, through seeking the creation of a ''contested arrear'' account, that we simply intend to ''write off'' some $400 million in arrears to the U.N.

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Do past U.N. actions in suspending the requirement for payment of arrears by other countries provide a precedent for our arguments?

(3) What are the legal consequences of our failure to pay our arrears?

Who determines what the U.S. legal obligation is, the U.S. or the U.N.?

I appreciate your cooperation in providing answers to these questions.

With best regards,

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

FAMINE IN SUDAN

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. HALL of Ohio. Mr. Speaker, I rise today to let our colleagues know about the people in