

Option 1A as part of the implementation of the final rule to consolidate Federal milk marketing orders:

Mr. LUTHER. Mr. Chairman, I rise in opposition to H.R. 1402, legislation to consolidate Federal Milk Marketing Orders. I grew up on a small, family dairy farm near Fergus Falls, Minnesota and understand how the current antiquated dairy pricing system discriminates against the family farms in the Midwest. In 1996, this Congress passed the Freedom to Farm Act, legislation that seriously affected American family farmers. Freedom to Farm has not worked out as its authors had said it would, but part of the bill called for a more market-oriented dairy pricing system. In other words, the Freedom to Farm Act encouraged the Department of Agriculture to do exactly what it has proposed: develop a pricing system that does not penalize Midwestern states.

For too long, farmers in Minnesota and other states in the Upper Midwest have suffered from unfair dairy prices. Instead of correcting this problem, H.R. 1402 forces us to remain in this regime. This bill also forces us to maintain a price support system that jeopardizes our ability to negotiate international trade agreements for agricultural products. Before we can make progress on trade issues, we must set an example by moving toward a market-oriented dairy pricing system. I encourage my colleagues to reject the old way of doing things in Washington, support regional equity in the dairy industry and vote against the legislation before us today.

TRIBUTE TO DELON HAMPTON,
PH.D., P.E.

HON. JAMES E. CLYBURN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1999

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Dr. Delon Hampton who is soon to be inaugurated President of the American Society of Civil Engineers (ASCE). His installation as president of this fine organization is historic in that Dr. Hampton will be the first African-American ever to serve in that capacity. As Chairman of the Congressional Black Caucus, I applaud this outstanding achievement.

It is not surprising that Dr. Hampton would be honored with such distinction. Currently he is Chairman of the Board and Chief Executive Officer of his own consulting engineering, design, and construction and program management services firm, Delon Hampton & Associates, Chartered (DHA). This successful venture has been in operation for 26 years and is one of the top 360 design firms in America.

Dr. Hampton has also lent his talents to academic pursuits. He was actively involved in university teaching and research for approximately 25 years and has published over 40 papers in professional and technical journals.

In addition to his active role with the ASCE, Dr. Hampton has also been involved as an Associate Member of the Board of Governors of the American Public Transit Association (APTA). His other involvements include serving on the Board of Directors for the Greater Washington Board of Trade, as a Director for

the Center for National Policy, and as a Malcolm Baldrige Award Overseer for the U.S. Department of Commerce.

Dr. Hampton's honors include being a Councillor of the National Academy of Engineering, receiving Honorary Doctorate degrees from Purdue University and the New Jersey Institute of Technology, being selected a Distinguished Engineering Alumnus and Old Master by Purdue University, being a recipient of the Civil Engineering Alumni Association's Distinguished Alumnus Award of the University of Illinois, and being a recipient of the Edmund Friedman Professional Recognition Award and the James Laurie Prize both given by the American Society of Civil Engineers.

Mr. Speaker, I ask you and my colleagues to join me today in paying tribute to this outstanding civic leader and businessman. Dr. Hampton's historic selection as the first African-American president of the American Society of Engineers is a reflection of his impeccable credentials and a testament to the successes that can be achieved by minorities when they are empowered with education and opportunity. The example of excellence he exemplifies deserves the highest commendation.

INTERSTATE CLASS ACTION
JURISDICTION ACT OF 1999

SPEECH OF

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1999

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1875) to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions:

Mr. CASTLE. Mr. Chairman, I rise today in strong support of H.R. 1875, the "Interstate Class Action Jurisdiction Act of 1999" because it contains provisions essential to preserving the reliable body of state case law that guides the governance of internal corporate affairs, most of which is developed by specialized courts in my state of Delaware. The depth and quality of this case law gives boards of directors for corporations all over the country the necessary guidance and predictability to move forward with multi-million dollar transactions according to their business judgment without the threat of courts overturning these transactions.

On July 22, 1998, the House passed H.R. 1689, the "Securities Litigation Uniform Standards Act" by a vote of 340 to 83. That bill contained a non-controversial carve out, constructed with technical assistance from the Securities Exchange Commission (SEC), for state class actions involving the purchase or sale of securities. Congress and the SEC recognized that the states had a well-developed body of law on the fiduciary duty of directors to disclose information to shareholders in connection with votes and investment actions, such as proxy solicitations, mergers, restructures, exchanges and tender offers. Therefore, there was no need to remove class actions concerning these transactions from state courts to federal courts.

As originally drafted, the Class Action Jurisdiction Act failed to provide for this same protection of state expertise. In fact, it would have undone the widely accepted Securities Litigation Uniform Standards Act's carve out. Furthermore, because the Class Action Jurisdiction Act federalizes a broader range of class actions, adding the Securities Litigation Uniform Standards Act carve out would not have been sufficient. Therefore, in cooperation with expert corporate law attorneys from both the plaintiff and defense bars, legal scholars, and Congressman GOODLATTE, I drafted an amendment to carve out class actions involving securities and internal corporate governance matters. The amendment was included in the manager's amendment when the bill was marked up in the Judiciary Committee.

Some of my colleagues have raised concerns that state corporate law issues should not be the only ones exempted from "federalization" under the Class Action Jurisdiction Act. I look forward to the debate on whether other class actions should be exempted. However, it is important to note that what makes corporate law issues unique is that there is no federal corporate law. State incorporation laws act like enabling statutes. That is, there is no law unless case law develops it. Traditionally, this law has been developed at the state level. Delaware, New York, and California particularly have large bodies of well-developed state corporate law. Given the structure of the federal court system with twelve circuit courts of appeal and the limited ability of the Supreme Court to adjudicate conflicts among the circuits, the removal of state courts from the adjudicatory process for class actions involving corporate law issues could add significant uncertainty to the resolution of issues arising under state corporate laws.

The SEC recognized this problem in its testimony concerning the Securities Litigation Uniform Standards Act. It stated:

Preemption of state duty of disclosure claims raises significant federalism concerns. Many state courts, particularly those in Delaware, have developed expertise and a coherent body of case law which provides guidance to companies and lends predictability to corporate transactions. In addition, the Delaware courts, in particular, are known for their ability to resolve such disputes expeditiously—in days or weeks, rather than months or years. Delay in resolving a dispute over a merger or acquisition could jeopardize completion of a multi-billion-dollar transaction. Broad preemption would diminish the value of this body of precedent and these specialized courts as a means of resolving corporate disputes.

Furthermore, a trend has begun to emulate Delaware by creating courts with jurisdiction designed to provide a forum for the resolution of disputes involving business entities with expertise and efficiency. New York and Pennsylvania have created such courts. This reflects a judgment that the coherent articulation and development of state law governing business entities is a goal to be pursued, and one best addressed by the creation of a forum with subject matter expertise in the area. Federalizing class actions involving state corporate law would only serve to fracture the development of the law, rather than leaving it in the hands of a small number of highly specialized and expert jurists, conversant with the history and current trends in the development of the law.