it treated at no cost if the daughters developed a certain type of cancer of the vagina or cervix at any time before they are 70.

''Under the legislation under consideration, it is unlikely that any DES mother or child would have been able to recover any damages,'' Mink said.

Bilbray has not been as eager to discuss his experience. ''It's not something I prefer to talk about.'' he said after a House Commerce Committee meeting last month. But that's what Bilbray did when the committee drafted its version of the product liability bill.

''Women and children are dying as a result of existing laws,'' Bilbray told his colleagues at the drafting session. ''Products that are needed are being pulled off the shelves because of lawsuits.'' Some people may think lawsuits may make all the pain better, he said. But, he added, ''please do not think there's any amount of money that's ever going to pay a parent back by never being able to hug their child.''

''Listening to all these members stand up and talk about how consumer products have done all these terrible things, it was like a knife cutting into me * * * Sometimes you just have to stand up and scream,'' he said in an interview afterward.

KEY FACETS OF THE LEGISLATION

Product liability legislation to be considered by the House would:

Preempt state laws and set a national standard for product liability lawsuits.

Bar any lawsuit for damage incurred from products more than 15 years old unless they cause a chronic illness, such as cancer caused by asbestos or DES.

Limit punitive damages to the greater of $250,000 or three times the economic damages.

Require ''clear and convincing evidence'' that a manufacturer either intended to cause harm or acted with conscious, flagrant indifference for punitive damages.

Bar damages if the person bringing the suit was intoxicated or under the influence of drugs when the harm occurred and if alcohol or drug use was the principal cause of the accident.

Make retailers liable only if they engaged in intentional wrongdoing, negligence or if the product failed to comply with an express warranty made by the retailer. The retailer also would be liable if the manufacturer went bankrupt or could not be sued in the claimant's state.

Sanction attorneys for filing frivolous pleadings in product liability actions.

Separate legislation would require the loser of any lawsuit to pay the winner's legal costs if the loser rejected a settlement before the jury verdict. Even if a jury found in favor of the person bringing the suit, that person could still be required to pay the other side's legal fees if the jury award is less than a rejected settlement.

Ten years ago, Bilbray's wife had to go into the intensive care unit ''when she couldn't get access to the drug she desperately need,'' he said.

In three earlier pregnancies in a previous marriage, Karen Bilbray had taken a drug called Bendectin to control severe morning sickness. But in 1984, when she was pregnant with Bilbray's child, Bendectin was no longer available.

The manufacturer, Merrell Dow Pharmaceuticals Inc., had removed the drug from the market after several women successfully sued the company, alleging that the drug produced birth deformities. Even though scientific data never proved it was harmful, Merrell stopped selling the drug.

''My wife was not allowed to make a decision on what she wanted to put into her body; it was made by a lawyer suing, maybe well-intentioned but misguided and very critical to her well-being,'' Bilbray said.

Without Bendectin, Bilbray's wife became so sick she went into shock, he said. ''If it wasn't for a doctor willing to take the risk [and give her some Bendectin], I probably would have lost her.'' A son, Brian, was born several months later, to live only three months before he died of crib death. Bilbray is convinced that the trauma of his wife's first three months of pregnancy contributed to the child's death.

''People are going to suffer no matter what you do'' to reform the civil justice system, Bilbray said. But Congress ''needs to be more sensitive to the damage that these lawsuits create by denying benefits'' to people who may need them.

PERSONAL EXPLANATION

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 9, 1995

Mr. ABERCROMBIE. Mr. Speaker, on Wednesday, March 8, 1995, I was meeting with a group of high school students—who traveled to Washington, DC, from the State of Hawaii—in a part of the Capitol where the voting bells could not be heard and missed rollcall vote No. 210. I want the RECORD to show that had I been present I would have voted ''nay'' on rollcall vote No. 210, the Cox substitute amendment to the Eshoo amendment.

TRIBUTE TO WILLIAM MEEHAN

HON. ROBERT T. MATSUI

OF CALIFORNIA

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 9, 1995

Mr. MATSUI. Mr. Speaker, we rise today to pay tribute to Mr. William Meehan, a native Californian who has devoted his professional career to the preservation and growth of labor's health in this great State.

In the many years Mr. Meehan has been a major force in the labor realm, both of our offices have relied on his expertise and counsel. We join with the scores of colleagues who salute the outstanding leadership you have given to the Sacramento-Sierra's Building and Construction Trades Council and to the Sacramento Central Labor Council.

In an era of shrinking resources, Mr. Meehan has been one of Sacramento's great defenders, ensuring jobs for thousands of men and women throughout the region.

Not only has Mr. Meehan been an outstanding defender of the labor force, but we would be remiss in not commending his steadfast support of this entire community. The list of political, charitable, and labor related organizations with which he has aligned himself reflects the great character all leaders strive to achieve. An abbreviated list of organizations who are indebted to his leadership and hard work include the Greater Sacramento Area Plan, Labor and Business Alliance, Sacramento Water Intelligently Managed, Private Industry Council, Auburn Dam Council, Friends of Light Rail, American Red Cross, Sacramento Employment Training Agency, Harps, National Toxics Coalition, United Way, Hundred Dollar Club, Sacramento Metropolitan Chamber of Commerce, and the Sacramento Fire Board.

Truly, Sacramento is a better place to work and live thanks to what we hope is only the first half of Mr. Meehan's career. As he begins to undertake his latest challenge for the Painter's International, we ask our colleagues to join us in wishing him continued happiness and success.

HOPALONG CASSIDY FAN CLUB PROCLAMATION—THE CITY OF CAMBRIDGE IN THE STATE OF OHIO

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 9, 1995

Mr. NEY. Mr. Speaker, I submit the following proclamation from the city of Cambridge in the State of Ohio.

Whereas, the Hopalong Cassidy Fan Club has contributed untold volunteer hours in building character, citizenship, and leadership in this community; and,

Whereas, the Hopalong Cassidy Fan Club is celebrating the 100th birthday of Hopalong Cassidy on June 5, 1995; and,

Whereas, members have made in kind contributions of service, financial contribution to the Cambridge area, contribution to the Park School, and to other important needs of the community; and,

Whereas, the local Hopalong Cassidy Fan Club has extended the interest of Hopalong Cassidy within this community; and,

Whereas, the members of schools, churches, service clubs, union organizations, and others have been members of the Hopalong Cassidy Fan Club; and,

Whereas, the city of Cambridge and all the surrounding areas of Ohio are better places to live because of Cambridge's Hopalong Cassidy Fan Club, we join in the celebration of the 100th birthday of Hopalong Cassidy on the fifth day of June in 1995.

SECURITIES LITIGATION REFORM ACT

SPEECH OF

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes.

Mr. LAFALCE. Mr. Chairman, I rise today to state my reluctant opposition to this bill, for I had hoped it would be adequately amended so that I could support it. Instead, I must comment on several serious issues that yet remain to be addressed with this legislation.

This week's so-called tort reform legislation consists of three bills, addressing in turn civil litigation, securities litigation, and product liability. In each case, I believe the proponents of the bill have recognized a real problem, but have attempted to write into law remedies that

far exceed those needed to address the problem, and far exceeding those that are desirable.

Today's bill, H.R. 1058, is the least problematic of these bills. It addresses a discrete but serious issue—the filing of frivolous securities fraud class action lawsuits. As the Chairman of the Securities and Exchange Commission agrees, this problem clearly exists and may be growing. A very small group of overzealous attorneys pursue these lawsuits, often within hours of a significant change in the price of a stock or security. These attorneys keep on hand stables of professional plaintiffs for these suits, and prey on high-technology companies whose stock prices are naturally volatile. In many cases, companies are forced to settle out of court, rather than endure a lengthy and expensive trial on the merits.

The evidence indicates that such lawsuits are often baseless. However, the costs of defending such suits places a significant drag on high-technology and startup companies, not to mention their directors, officers, and accounting firms.

Without a system of proportionate liability—such as that proposed in H.R. 1058—accounting firms, for example, justifiably fear the prospect of being names as codefendants in these class action lawsuits. As a result, some now choose not to perform accounting and auditing services for this growing sector of our economy.

For these reasons, I had hoped to be able to support a bill that would address the specific problem of securities fraud class action lawsuits in a responsible way. Instead, like so many other bills seeking to enact the so-called Contract With America, we have today considered a bill that far overreacts and far overreaches.

H.R. 1058 did improve somewhat as it moved through the Commerce Committee, both at the subcommittee and the full committee level. Unfortunately, House leaders chose to circumvent the Legislative process in the Judiciary Committee, where further improvements could have been made. Today on the House floor, several valuable amendments to the bill were offered, including one by my colleague from New York [Mr. MANTON]. These amendments were not even considered seriously. I am forced to conclude that proponents of this bill do not intend to pursue reasonable compromise. I hope that the Senate will be more deliberate, and that any future conference agreement might weigh these difficult issues in a more responsible manner.

But at this time, H.R. 1058 contains numerous flaws, including: an unduly burdensome loser pays provision, prohibitive fact pleading requirements, an onerous bond requirement for the filing of class action suits, the need to show scienter rather than recklessness in order to prove securities fraud, et cetera. These are serious defects, which must be responsibly and deliberately addressed. For these reasons, I must now oppose passage of H.R. 1058, but hope it will be moderated significantly in conference with the Senate, so that I could then support final passage of the conference report.

ATTORNEY ACCOUNTABILITY ACT OF 1995

SPEECH OF

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 6, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 988) to reform the Federal civil justice system.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to H.R. 988, the Attorney Accountability Act of 1995. While I am aware of the current excitement in the Congress to do anything perceived as promoting the interests of the rich, and big corporations, I am also mindful of my duty as a Member of Congress to act in the best interest of the all the people I represent and in the best interest of the U.S. Constitution I have sworn to uphold.

We cannot and should not, in an attempt to decrease the amount of frivolous lawsuits, shirk our responsibility to act in the best interest of poor and hard working Americans by disrespecting the Founding principles of the American justice system—over 200 years of common law. This shortsighted and rushed legislation will not only fail to reform or enhance the legal system in the United States, but will endanger the delicate balance of power between rich and poor, powerful and weak, so skillfully and wisely crafted over 200 years of development in the courts of this Nation.

The bill before us today, the Attorney Accountability Act of 1995, will not only attempt to curtail unwanted lawsuits, but will also make it impossible for regular Americans to have access to the Federal courts. Such an assault on American citizens' rights to access to the courts is an outrage. This restrictive bill will certainly undermine many of our most important efforts to provide a forum that promotes equality for all Americans.

Mr. Chairman, the stated purpose of the Attorney Accountability Act is to require one party to pay the other's attorney fees and other legal costs if that party rejects a settlement offer, and then receives less in the judgment at trial. Republican proponents have stated that this provision is intended to discourage frivolous lawsuits, and encourage parties to settle disputes prior to trial. This bill also establishes new restrictions on the use of scientific evidence, by establishing a presumption of inadmissability. Finally, the bill requires judges to impose sanctions on attorneys for making frivolous arguments.

This legislation, which would result in limiting citizens' access to our Federal courts, warps the American justice system to such an extent that the motives of the drafters of this legislation should be seriously questioned. While I agree that Congress should continue to make significant strides to improve the quality of litigation in this country, this proposed measure goes well beyond the legitimate objective of balancing the interests of regular working people and corporate America. In fact, this bill will inhibit the will of the people by transferring all of the power of rendering justice in the courts to the wealthy, well-connected, and privileged.

The clear result of the imposition of a lower pays rule would be to destroy Americans' constitutionally guaranteed right to have access to the Federal courts through diversity jurisdiction. Article III of the U.S. Constitution guarantees diversity jurisdiction and unequivocally states: ''The judicial power shall extend to all cases * * * between citizens of different States * * *.'' The 14th and 15th amendments declare that no State ''shall deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of laws.'' The 14th and 15th amendments were clearly intended to ensure all Americans access to the courts of this country for the protection of their persons and property, to redress wrongs and to enforce contracts. Without free access to the courts, Americans' constitutional rights will be abrogated. By imposing on working Americans what could be substantial costs for bringing an unsuccessful claim, H.R. 988 locks the Federal courthouse doors, and gives the rich the key.

Mr. Chairman, not only would transferring the power in litigation to the wealthier party be clearly contrary to the course of 200 years of American common law, the reasoning behind this unfair and unjust bill is not supported by the facts. So-called frivolous lawsuits actually make up a minute portion of all lawsuits litigated in this Nation. Under current law, the Federal rules of civil procedure give judges the opportunity to hold attorneys accountable for bringing frivolous lawsuits. Rule 11 of the Federal rules of civil procedure presently authorize Federal courts to impose sanctions upon attorneys, law firms, or parties for engaging in inappropriate conduct or for bringing frivolous or harassment lawsuits. The facts clearly show that despite the fact that there were thousands of cases filed last year, in less than 1 percent of those cases did Federal judges determine that rule 11 sanctions were justified.

H.R. 988 would remove from the wise discretion of a Federal judge the determination of how to impose rule 11 sanctions. My colleagues on the other side of the aisle have often claimed that they favor retracting the tentacles of the Federal Government from local people, who best know and understand the issues they face. Yet, this bill flies in the face of this often touted Republican ethic. H.R. 988 removes from a Federal judge who has heard the evidence, knows the parties, and lives in the community, the discretion to make a determination of when to impose rule 11 sanctions. This modification of the Federal rules is unjustified, ill-advised and will lead to injustice for working and middle-class Americans.

For over 200 years, the American legal system has developed a system that keeps frivolous suits to a minimum. The free market has established contingent fee arrangements that create an enormous disincentive for plaintiffs who seek to initiate frivolous lawsuits. Contingent fee cases permit working- and middle-class Americans to have access to attorneys whose fees they could not normally afford. This does not mean that these plaintiffs currently incur no costs or risks. Plaintiffs are often faced with substantial court costs and attorney expenses that must be paid up front and are often nonrefundable, win, or lose.

The reality of the economics of contingent fee arrangements make it economically ill-advisable to bring, support or litigate frivolous claims. H.R. 988's so-called attack on frivolous