Many oppose the bill on the basis that it recognizes optometry as a profession, thereby expanding the scope and definition of the practice of optometry. This is probably the most important question before your Committee. Is optometry a profession—with all that word implies in terms of responsibility for the public welfare? We emphatically maintain that it is.

This characterization of optometry as a profession serves more than a merely honorific purpose. It carries with it significant legal consequences.

LEGAL OPINIONS

Recently, the Corporation Counsel for the District of Columbia in the brief for appellee in *Norman Fields* v. *District of Columbia*, quoted the United States Court of Appeals in *Evers* v. *Buxbaum* which stated that the primary aim of Congress in enacting the optometry statute * * * "was to insure that the service would be rendered by competent and licensed persons and thereby to protect the public from inexpertness."

Even courts which have not explicitly referred to optometry as a learned profession, have hesitated in thrusting upon optometrists the responsibilities and liabilities derived from such legal status. The extent of the optometrist's duty to recognize ocular pathology serves as an example. A definite responsibility in this area commensurate with the status of medicine has been created by state court rulings within the past thirty years.

It is interesting to note that this trend of decisions coincides with the tendency, originating at the same time, to definite optometry as a profession by legislation.

Of all the earlier arguments set forth before this Committee, we are most distressed by the opposition from Walter N. Tobriner, President of the D.C. Board of Commissioners, who must administer and enforce this Act. We believe the arguments Mr. Tobriner makes are based on antiquated and outworn decisions coupled with opinions he has received from medical and optical friends. To help him and you determine the professional status or lack of it for optometry in the District, I refer you to statements he made in opposition to similar legislation last year and, hopefully, counter them.

Mr. Tobriner's statement in opposition to this legislation deals with a 1940 court decision, *Silver* v. *Lansburgh and Bros. et al.* The American Optometric Association believes this decision is one of the biggest obstacles to protecting the public from those who would employ the license of an optometrist primarily for their own selfish gain.

Mr. Chairman, we believe the court in this case was not adequately informed of the scope of optometry or its training, that it erred in its judgment that optometry is solely a mechanical art using mechanical instruments and appliances. Such a definition predates 1924. The decision further appears to be predicated on the wording of the definition of optometry as contained in the 1924 Act, 43 years ago, and not upon the contemporary practice of the profession.

Despite the court's statement in the Silver v. Lansburgh case, there is ample legal authority for the proposition that optometry is a profession rather than a narrow technical calling or trade as defined in the