

STATEMENT OF RICHARD A. WEINMANN

My name is Richard A. Weinmann. I am a partner in the law firm of Sipser, Weinstock & Weinmann, 50 Broad Street, New York City, counsel for the past 25 years to the United Optical Workers Union Local 408, International Union of Electrical Workers, AFL-CIO, located at 150 Fifth Avenue, New York City. We are also counsel to many pension and welfare funds. I am here today to testify in opposition to H.R. 1283 on behalf of the Optical Council of the International Union of Electrical Workers, AFL-CIO, the National Optical Workers Conference, and the United Optical Workers Union, Local 408.

With me today, among others, are Henry McKinnell, Administrative Assistant of the International Union of Electrical Workers and John Golia, Business Representative for Local 408 and a member of the Advisory Board for Vocational and Extension Education of the New York City Board of Education and of the Advisory Committee on Ophthalmic Dispensing of the New York City Community College.

Our analysis of H.R. 1283 is that it is a bill inspired by the American Optometric Association, heavily weighted in favor of individual salon entrepreneur optometrists and against all others, including the public, ophthalmologists, opticians, employed optometrists, corporations and other employers of optometrists and opticians, and the unions which represent such employees, including Local 408.

The main thrust of the bill is to outlaw the employment of licensed optometrists by firms and corporations, and thereby to corner the eyeglass market for the optometrist.

An optometrist is a hybrid which grew up in our national life, combining professional and merchandising characteristics, with the accent heavily on the merchandising side. In other words, an optometrist is a semi-professional who makes his living selling eyeglasses. If one were to suggest to salon optometrists that they could be accorded real professional status provided they abandon the sale of eyeglasses, they would immediately withdraw their sponsorship and support of H.R. 1283 and run for cover. Their *raison d'être* is precisely the sale of eyeglasses, euphemistically referred to as "dispensing" in the optical field. In fact, optometrists studiously avoided involvement in the Hart Bill hearings before the United States Senate (S. 260). The Hart Bill, as you may know, would prohibit practitioners as defined therein from the sale of drugs or eyeglasses.

With the above in mind, we can proceed to analyze H.R. 1283 to see if it accords with the public interest. The guts of the bill are found on page 9, lines 7 through 12 (Section 7(a) subdivisions 17 and 18); on page 10, lines 14 through 18 (Section 8(a)(2)); and page 12, lines 12 through 16 (Section 8(a)(8)). These provisions would prohibit the practice of optometry anywhere except in a salon or office, would prohibit an optometrist from acting as such as an employee, and would prohibit the practice of optometry by a company, association or corporation or by anyone else except, interestingly, by another optometrist.

What would be the result of the passage of this bill? It would result in the elimination of low-cost optical care to many thousands of people of modest income in the District of Columbia, precisely those who need it most, and it would greatly reduce the number of trained individuals in the optical field who could provide eye care. Further, it would result in layoffs and the creation of a block of unemployed optometrists, opticians and other employees of corporations and other employers, and would force trained employed licensed optometrists to leave the field and to give up valuable rights as employees. Moreover, it would drive the cost of eyeglasses and eye care up to new heights without any corresponding benefit to the public.

It should be noted that it has never been demonstrated anywhere that the public has suffered as a result of eye care administered by employed optometrists. This question, in fact, was litigated in the State of New York and the Court of Appeals there found:

"* * * although the corporate employment of optometrists has existed for over half a century in this state, no instance has been cited where such employment caused injury to the public." (*People v. Sterling Optical Co. Inc.*, 11 NY 2d 970).

Our union is particularly concerned because the passage of the instant bill in the District of Columbia is intended as a forerunner for all 50 states. It corresponds with simultaneous efforts in other states to enact similar legislation. Such legislation, for example, was passed in the final moments of the New York State Legislature this year (Senate Intro 3335-A, Gordon) and was vetoed by Governor Rockefeller. His veto message is attached hereto.

Moreover, we are concerned with the due process aspects of such a bill. We