

The Burger Court Opinion Writing Database

Virginia Board of Pharmacy v. Virginia Citizens Consumer Council, Inc.

425 U.S. 748 (1976)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



April 28, 1977

Dear Chief:

In doing my work on the pending Bates case, I necessarily have had occasion to cite the opinions in Virginia Pharmacy Board v. Virginia Consumer Council, 425 U.S. 748. You will recall that you filed a concurring opinion.

75 OT
74-895

Your concurring opinion is vividly in my mind because shortly after Pharmacy came down, the New York Times ran an editorial attributing to me language contained in your opinion which compared certain tasks performed by a pharmacist with the service performed by "a clerk who sells law books." I received critical mail, as a consequence, from pharmacists.

I now discover that in the paper bound volume of 425 U.S. your concurring opinion has been changed. I came across this because I was considering a reference to your earlier language. I think the change is substantial, and my file contains no information whatsoever that it was made. Is it not customary to notify the Conference of any substantial change in an opinion after it has been issued in slip form (just as before the opinion comes down), and, particularly, the author of the primary opinion? The latter might wish to respond, although that is not so in this case.

For your information, the original form appears in the West Publishing advance sheets (presumably to be changed before the bound volume issues). I am advised, however, that certain members of the local academic community are aware that the change was made.

Sincerely,

HAB

The Chief Justice