

# The Communiqué

## President's Corner

*This past year we have worked and played hard, fought the forces of unauthorized practice of law and have. . .*

drunk just enough to make us remember a couple of Charlie Tutwiler's jokes in the Michie's hospitality room. What better legacy could there be for a presidency!!

As I prepare to pass the torch of Presidency to Tyler Dinsmore, I feel compelled to reflect on the last year, what has been accomplished and how it got done. Our list of accomplishments is as follows:

1. Improved administration and operation, including: timely publication of *The Communiqué* with improved format and content; improved and expanded web site; and development and implementation of a comprehensive data base software program which will improve membership communication,

organization, dues billing and accounting and overall efficiency of effective operation of the WVBA.

2. Enhanced member benefits, including: WVBA Online University providing CLE opportunities for members and increased revenue potential for WVBA; annual meeting improvements, including more CLE credits offered, increased number of exhibitors, sponsors and attendees; overall upgrade of amenities (guest activities and favors, improved registration and meeting organization).

3. Established WVBA Scholarship: endowed book scholarship at WVU College of Law.

4. Commissioned writing and publication of WVBA's history.

5. Bench & Bar Reception held May 10, 2001, at Robert C. Byrd Federal Courthouse.

None of these accomplishments could have been realized without a dedicated and committed Executive Council composed of: **J. Tyler Dinsmore, James C. "Jay" West, Jr., Charles M. Love, III, John F. McCuskey, Richard A. Pill, Forest J. Bowman, Ronda L. Harvey, Thomas S. Lilly and Pryce M. Haynes II**, Executive Director. Every single one of these individuals brought his or her own special talents which resulted in a synergistic brew that had the sweet smell of success.

*(continued on p. 3)*



Howard M. Persinger, Jr.  
WVBA President

**115<sup>TH</sup> ANNUAL MEETING**

**SEPTEMBER 27 - 29, 2001**

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The West Virginia  
Bar Association

Howard M. Persinger, Jr.  
President

Pryce M. Haynes II  
Executive Director

P.O. Box 2162  
Huntington, WV 25722  
Ph: (800) 944-9822  
Fx: (304) 522-2795  
E-mail: [director@wvbarassociation.org](mailto:director@wvbarassociation.org)

## YLD Wildness!

Ronda L. Harvey, President  
Young Lawyers Division

The YLD has been very busy this year planning fun events for lawyers of all ages! Our next big function is a tailgate party at the WVU Law School parking lot beginning two hours prior to the WVU-Virginia Tech game Saturday, October 6, 2001. The West Virginia State Bar YLD is co-sponsoring this party, and our law school divisions will be in attendance. ALL lawyers are encouraged to attend! Come and meet our future lawyers and rally to cheer on the Mountaineers. Look for the WVBA banner in the Law School parking lot!

In other business, we recently solicited nominations for the 2002 Executive Council. Ballots were mailed to all YLD members in August. The

new Executive Council will be announced at the WVBA Annual Meeting, scheduled for September 27-29, 2001 at The Homestead in Hot Springs, Virginia.

This meeting promises to be outstanding in every way: quality CLE seminars and fun social events. The YLD will host an informal dinner party for YLD attendees and their guests Thursday evening, September 27, at Sam Snead's Tavern.

The WVBA has reduced the registration fee for Young Lawyers (age 35, or younger and admitted to practice 10 years or less) to \$87.50. We recently sent a mailing to all young lawyers which included a list of other accommodations in the Hot Springs area. A

number of past attendees have chosen these more reasonable accommodations without sacrificing the benefits and camaraderie of the Annual Meeting.

The 2001 Annual Meeting also brings an end to my tenure as president of the YLD. It has been a great year and the Executive Council both for the WVBA and the YLD have been a joy to work with. President Persinger is quite a motivator, and our director, Pryce Haynes is quite a do-er! I'd like to send a special thank you to **Pamela Kandzari** and **Carl Dascoli**, both past presidents of the YLD, who shared their good ideas and support throughout the year. Best wishes to the next president of the YLD. You can count on my support.



### Post Exam Party a great success

J. Mark Adkins, Treasurer  
Young Lawyers Division

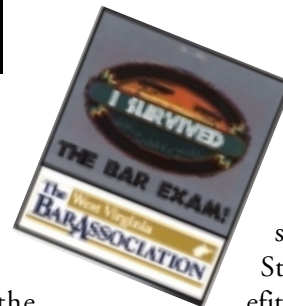
Shortly after the second and final day of the West Virginia Bar Exam came to a close, more than one hundred bar examiners kept with tradition and made their way across Quarrier Street in Charleston, West Virginia to Joey's Restaurant, to enjoy cold beverages and great food. The Young Lawyers Division seized this opportunity to meet the future lawyers of this State and to introduce them to the West Virginia Bar Association by sponsoring the First Annual Post-Bar Exam Party.

At the party, the bar examiners were asked to complete a short questionnaire and were then given a pass to wear which sported the West Virginia

Bar Association logo and the phrase "I Survived the Bar Exam." They were treated to free food provided by the Young Lawyers Division and drink specials graciously provided by Joey's.

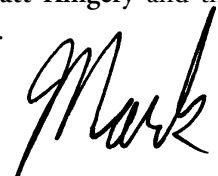
At the end of the evening, 62 bar examiners - nearly one-third of all those who took the exam this July - were registered as new members of the West Virginia Bar Association! The bar examiners were also very excited to learn that their first year of membership - in effect upon their admission to practice in West Virginia - is free!

Due to the overwhelming response we have received, the YLD hopes to make



this party an annual event so that the new lawyers of this State will experience the benefits and opportunities available through membership with the West Virginia Bar Association.

I would like to thank the following people for all of their marvelous help in making this party a success: **Ronda Harvey, Pryce Haynes, Kate Geis, Anita McCloud, Bowles Rice McDavid Graff and Love, Matt Kingery** and the great staff at Joey's.



## Justice Miller to receive Award of Merit at 115<sup>th</sup> Annual Meeting

Justice Thomas B. Miller, Retired, special counsel at Schrader Byrd & Companion, PLLC in Wheeling, has been selected to receive the 2001 Award of Merit. This prestigious recognition for distinguished service to the legal profession in West Virginia is The West Virginia Bar Association's highest award.

Justice Miller was elected to The West Virginia Supreme Court of Appeals in 1976, retiring from the Court in 1994. During his tenure on the Court, he served as Chief Justice in 1982, 1986 and 1990. Justice Miller has received many awards for his remarkable and illustrious career, including the *Distinguished West Virginian Award* by Governor Gaston Caperton and the *Justitia Officium Award* by the West Virginia College of Law.

Former recipients of the Award of Merit include: Edward I. Eiland, Esq.; John O. Kizer, Esq.; Charles R. McElwee, Esq.; and Charles F. Bagley, Jr., Esq.

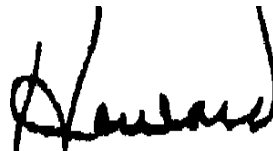
### President's Corner (cont.)

Special recognition must go to our new Executive Director, **Pryce Haynes**, whose creativity, dedication and efforts were limitless; and to the lawyers and staff (particularly **Judy Margolin** and **Kate Geis**) of **Bowles Rice McDavid Graff & Love**, for their uncompensated, valuable support in anything that we ask them to do, such as *The Communiqué* and the Bench & Bar Reception.

All in all it has been a great and rewarding year. Once again, like Harrison Tweed, I must say, "I have a high opin-

ion of lawyers. With all their faults, they stack up well against those in every other occupation or profession. They are better to work with or play with or fight with or drink with than most other varieties of mankind."

I report that the venerable West Virginia Bar Association, the third oldest bar in the United States, is alive, well and on the move. Here's to another great year!



### Advice From a Chief Justice on Animal Lifestyles

The horse and mule live thirty years  
And nothing know of wine and beers;  
The goat and sheep at twenty die  
And never taste of Scotch or Rye;  
The cow drinks water by the ton  
And at eighteen is mostly done;  
Without the aid of rum and gin  
The dog at fifteen cashes in;  
The cat in milk and water soaks  
And then at twelve years old she croaks;  
The modest, sober bone-dry hen  
Lays eggs for nogs and dies at ten;  
All animals are strictly dry  
They sinless live and swiftly die;  
While sinful, gleeful rum-soaked men  
Survive for three score years and ten.  
And some of us - a mighty few -  
Stay pickled 'til we're ninety-two.

Harlan Fisk Stone, 1872-1946  
Chief Justice, U.S. Supreme Court 1941-46  
Alpheus Thomas Mason,  
*Harlan Fisk Stone, Pillar of the Law, 1956*



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# The Communiqué

News from the

## Real Estate Lawyers Division

Richard A. Pill, Chairman

The Real Estate Lawyers Division of the West Virginia Bar Association is truly looking forward to the 2001 Annual Meeting at The Homestead. One of the seminar speakers will be Michael F. Waiwood, Vice-president and Senior Regional Counsel for First American Title Insurance Company. First American and its state director, Jim Williams, have been friends of the Real Estate Lawyers Division for several years, having jointly sponsored various seminars, and their cooperation is certainly appreciated.

Our organization continues to address the unlawful practice of law issue in the State of West Virginia, particularly as it pertains to real estate matters. Recently, a class action civil suit was filed in Brooke County, West Virginia, entitled *Lori McMahon v. Advance Title Services Company of West Virginia, et al.*, seeking injunctive relief and monetary damages against the defendants for the unlawful

practice of law and other actions. Legal counsel for this suit is **Daniel J. Guida, Esq.** A similar law suit has been filed in the Circuit Court of Wood County, West Virginia, entitled, *Joyce A. Campbell, et al. v. Mid West Title Agency, Inc., et al.*, alleging, among other things, the unauthorized practice of law and breach of fiduciary duty. This law suit also seeks injunctive relief, punitive and other damages and is requesting it be declared a class action suit. The attorney for the plaintiffs in this case is **Robert K. Tebay, III, Esq.** For more details on these law suits, please contact either of these legal counsel.

The Real Estate Division encourages members to report performance of legal services by non-lawyers to Thomas R. Tinder, Executive Director of the West Virginia State Bar, who will forward the matter to the Unauthorized Practice of Law Committee.

The regular session of the 2001 state legislature did not include substantial legislation affecting real estate law in West Virginia. However, the following legislation should be reviewed as it pertains to the West Virginia Code annotated: 1) *Section 8-12-18* was amended involving the authority of municipal corporations to sell, lease, or otherwise dispose of property; 2) *Section 11A-3-34 et seq.* was amended involving the sale of property for tax liens and non-entered lands; 3) *Section 16-5-12* involves birth registration and acknowledgment of paternity.

Anyone interested in membership or the activities of the Real Estate Lawyers Division may feel free to contact co-chairmen **Richard A. Pill, Esq.** (304-263-4971; [pillrpill@stargate.net](mailto:pillrpill@stargate.net)) or **Thomas S. Lilly, Esq.** (304-425-2196; [sandl@citlink.net](mailto:sandl@citlink.net)).

*Rick*

## Persinger and Haynes attend Virginia Bar Meeting

Our President and Executive Director were guests of The Virginia Bar Association at their 111th Summer Meeting at The Greenbrier in July. As has been the tradition in the past, The WVBA and The VBA extend invitations



(r-l): Howard Persinger, Jeanne Persinger, Jeanne Franklin (President of the VBA) and Bill Franklin

to each other's President and Executive Director to attend their meetings.

After several years of hiatus, this cus-

tom was rekindled by The VBA at their recent meeting.

Both Howard and Pryce were quite impressed with The VBA meeting and acquired several ideas for future WVBA meetings. Both the officers and administrative staff of The VBA were keenly interested in what we were doing and expressed a sincere offer to help us in any way they could.

The VBA, founded in 1890, has approximately 6,000 members, which represents about 25% of the attorneys licensed in Virginia. There were several

ideas shared that will be mutually beneficial to The WVBA and The VBA.



Pryce Haynes (l) and Breck Arrington (Executive VP of the VBA)

The VBA's President, Jeanne Franklin, and Executive Director, Breck Arrington, will be guests at our 115th Annual Meeting.

## The Certified Legal Assistants Program

V. Jane Lambert, CLA

The Certified Legal Assistant program is a responsive, self-regulatory program offering a nationwide credential for legal assistants by the National Association of Legal Assistants (NALA). Eighty-four people took the first Certified Legal Assistant examination ever administered in November 1976. Today, there are 10,822 Certified Legal Assistants (CLAs), sixty-one in West Virginia.

Use of the CLA credential signifies that a legal assistant is capable of providing superior services to firms and corporations. National surveys show that CLAs are better paid and better utilized in a field where attorneys are looking for a credible, dependable way of measuring ability. In 1986, the American Bar Association's Standing Committee on Legal Assistants termed the CLA credential as a "certification of higher professional achievement."

The Certified Legal Assistant examination, given three times a year, is a two-day comprehensive exam based on federal law and procedure. The major subject areas of the exam are: Communications, Human Relations and

Interviewing Techniques; Ethics; Legal Research; Judgment and Analytical Ability; and Substantive Law. This section consists of five mini-exams covering the American Legal System and four of the following nine areas: Administrative Law; Bankruptcy; Business Organizations/Corporations; Contracts; Family Law; Criminal Law; Litigation; Probate and Estate Planning; or Real Estate Law.

In order to pass the CLA examination, a legal assistant must successfully complete all five sections of the exam. Approximately 48% of examinees pass all sections on the first sitting.

For more information about the CLA examination, click onto the NALA website at [www.nala.org](http://www.nala.org), or visit the Legal Assistants of West Virginia's website at [www.geocities.com/-lawv/](http://www.geocities.com/-lawv/). LAWV has offered a CLA Review Course for the past three years, and plans are underway for another review course in September 2001.

### WVU TAILGATE PARTY!



Join us **Saturday, October 6th**, for the WVU Tailgate Party, hosted by the Executive Council of the Young Lawyers Division!

Activities begin two hours prior to kick-off in the parking lot adjacent to the College of Law. We'll have food and soft drinks for all, plus some great prizes! Just look for the WVBA banners on the tables next to the law school. Then join us as we head into Mountaineer Field to watch the Mounties pound the Hokies!

All members of The WVBA are invited. And don't forget to spread the word to prospective WVBA members (lawyers and law students)! Our goal is to have a great time, cheer the Mountaineers on to victory and... to RECRUIT!

*See you there!*

### All You Ever Really Need to Know About the Need for Professionalism Among Lawyers

Sometime, when you're feeling important,  
Sometime, when your ego's in bloom,  
Sometime, when you take it for granted,  
You're the best qualified in the room;

Sometime when you feel that your going,  
Would leave an unfillable hole,  
Just follow this simple instruction,  
And see how it humbles your soul.

Take a bucket and fill it with water,  
Put your hand in it, up to the wrist,  
Pull it out, and the hole that's remaining,  
Is a measure of how you'll be missed.

You may splash all you please when you enter,  
You can stir up the water galore,  
But stop, and you'll find in a minute,  
That it looks quite the same as before.

The moral in this quaint example  
Is to do just the best that you can,  
Be proud of your self, but remember,  
There is no indispensable man.

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**Jim P. Williams**

*Vice-President and State Manager*

### Buy Office Products at Discount Prices

The West Virginia Bar Association has entered into an agreement with **Boise Cascade Office Products** to provide WVBA members with office products at significant discounts. Boise Cascade is the largest contract stationer in North America, with fifty-two (52) distribution centers in the United States.

In the next few days, you will receive a catalogue from Boise Cascade that includes approximately 1,500 items priced at 50% off list price. These 1,500 items include many of the traditional “high usage” items that most business offices use on a daily basis such as legal pads, pens, filing supplies, etc. In addition, there are no shipping charges, no minimum order size and next-day delivery to most areas in West Virginia.

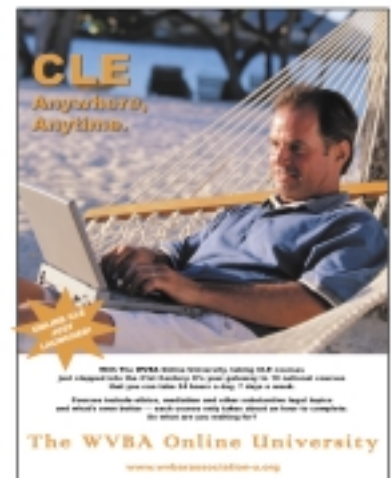
This is a great opportunity to save your firm money on items that you use every day. For additional information, contact Mick Bell at Boise Cascade: 1-800-532-6473

### WVBA Online University

**A simple way to earn CLE credits  
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WVBA Online University provides exceptional educational programs and materials in a wide variety of areas, so you can earn your required credits conveniently *and* timely. The WVBA Online University is quick and easy! Courses are offered at a great savings to WVBA Members - just \$35 per credit hour. Non-member cost is \$50 per credit hour.

Take advantage of your WVBA membership with this great opportunity. Visit our website at [www.wvbarassociation.org](http://www.wvbarassociation.org), click on WVBA University and start earning your credits today!



## It pays to be a member of The WVBA!

## Why the West Virginia Bar Association?

Charles M. Love, III, Chairman  
Legislation Committee

From time to time you will hear lawyers say “I am required to pay dues and belong to the West Virginia State Bar Association (State Bar) - why should I voluntarily pay dues and belong to the West Virginia Bar Association (Bar Association)?”

Our President, Howard M. Persinger, Jr. of Williamson, refers to the Bar Association as the “birthing mother” of the State Bar. As reflected in the Summer Edition of *The Communiqué*: Jack Bowman is in the process of writing a history of the Bar Association and its 115 year history. Part of that history will speak to the labor pains and birth of the State Bar.

Briefly, and Jack will tell you the details, in 1947, the West Virginia Supreme Court of Appeals asked the Bar Association to assist in the creation of the West Virginia State Bar to be under the auspices of the Supreme Court. All lawyers were (and are) required to pay

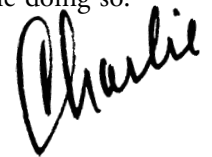
dues and belong to the mandatory or integrated State Bar. The State Bar Association would be a vehicle for the Supreme Court to supervise admission to the practice of law and the discipline of lawyers who stepped outside ethical bounds. In short, the new - in 1947 - Association, which is now known as the State Bar, is an arm of the West Virginia Supreme Court of Appeals.

The Bar Association, on the other hand, is a voluntary association - as it always has been - and is free to take whatever position on whatever issue it determines, independently, as it wishes. There are times, frankly, when the State Bar, because of its relationship with the Supreme Court, cannot take positions on issues. In those instances, which are rare, the Bar Association steps forward and fronts those issues. For example, the Bar Association in the past has offered to publish the “Judicial Poll” results before elections when there were objections to its publication by members of

the judiciary who were standing for re-election.

Generally, however, the Bar Association and the State Bar work together. The Bar Association is an independent voluntary association that can and does lobby the legislature for changes in the law for the benefit of the profession. We have recently taken a position regarding the unauthorized practice of law in the real estate area, and advocated election of judges pursuant to the “Missouri Plan.”

We have held great annual meetings of 115 years and will continue to do so into the future. So the answer to the question posed is because it is voluntary, can freely speak for the profession and has a good time doing so!



### Annual meeting registration well ahead of last year

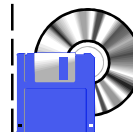
The response to the 115th Annual Meeting of The West Virginia Bar Association has been great! Based upon current registration, the turn-out will be one of the best in several years.

Although our block of rooms has been exhausted, The Homestead still has rooms available for those interested in

registering at this time. There are also other accommodations available in the Hot Springs, VA area. Go to [www.bathcountva.org](http://www.bathcountva.org) for a complete listing of motels and bed and breakfasts in the area.

If you have not yet registered for the 115th Annual Meeting, do it today!

See this issue's insert for Meeting Registration Forms and Agenda!



### Technology CLE added to meeting agenda

In addition to the CLE Seminars scheduled for Friday and Saturday mornings of the Annual Meeting, a Technology Workshop is planned for Friday afternoon. This will be an opportunity for those interested to acquire knowledge of and “hands on” experience with the latest high tech hardware and software applications ideally suited for today’s law practice. CLE credits will be available for attending this workshop.

