

## EDITORIAL NOTES

### THE WASHINGTON UNIVERSITY LAW QUARTERLY

The annual Law Quarterly banquet was held March 26 at the University Club. A discussion was held on the topic, "The Future of the Legal Profession." The following were appointed to the Board of Editors for the editorial year 1942-1943: Editor-in-Chief, Horace S. Haseltine; Associate Editor, Myron Gollub; Note Editor, Dave L. Cornfeld; Comment Editor, Robert S. Skinner; Book Review Editor, Virginia T. Merrills; Business Manager, Rodham W. Kenner. Certificates of merit for writing and service on the Law Quarterly were presented to Virginia Morsey, John R. Stockham, Alvin M. Extein, Ray T. Sample, Gilbert A. Schuessler, and John W. Fuson. Law Quarterly keys were awarded to the following members of the staff in recognition of their contributions to the student section of the Quarterly: Virginia Morsey, John W. Fuson, Ray T. Sample, John R. Stockham, Horace S. Haseltine, Myron Gollub, and Robert S. Skinner.

Mr. Haseltine was called to commence training July 6 for a commission in the Naval Reserve.

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### PRIZES

At the annual Alumni-Senior Convocation, the following Law School Prizes were awarded: Mary Hitchcock Thesis Prize, to the senior submitting the best thesis of the year, Virginia Morsey; the Samuel M. Breckinridge Scholarship Prizes, awarded to the students having the highest averages in their respective classes: for the senior class, 1941-1942, Virginia Morsey, first, John R. Stockham, second; for the second year class, 1940-1941, Virginia Morsey, first, John R. Stockham, second; for the first year class, 1940-1941, Myron Gollub and Horace S. Haseltine, tied. The Breckinridge Moot Court Prizes, based upon preparation of briefs, mastery of subject matter, and presentation of oral arguments in practice court trials, were awarded to Lester Gross and Frank Lee Nickerson, first; Eugene Stanley Davis and Ray T. Sample, second. The Richard Wagner Brown Prize, to the student best exemplifying scholarship, leadership, and character, was awarded to John R. Stockham; the Alumni Prize, to the senior student having the highest scholarship average for

the three years, to Virginia Morsey; the Nathan Burkan Memorial Competition Prize, to the senior submitting the best thesis on copyright law, to Nathan Ben Kaufman. Final Honors were awarded to Virginia Morsey, Ray T. Sample, and John R. Stockham.

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## NOTES

### THE CONSCIENTIOUS OBJECTOR IN LAW

#### INTRODUCTION

With the entrance of the United States into the present War the position of the conscientious objector in the law once again needs clarification. It is the purpose of this note to show the historical development of this exemption from military service, and to explore the legal aspects of the status of conscientious objector.

#### LEGISLATIVE BACKGROUND

##### *I. Conscription Generally*

As early as 1777 Virginia passed an act providing that if a certain number of men were not raised for the continental army by a certain date, there should be a draft from the militia.<sup>1</sup> This act was never attacked in the courts. The Constitution of the United States gives Congress the power to "raise and support armies,"<sup>2</sup> but the Second Amendment recognizes the right of the states to a "well-regulated militia."<sup>3</sup> Pursuant to this grant the states have constitutional provisions providing for an active state militia of a voluntary nature, but reserving the right, by placing every citizen in the militia, to call any or all of them if needed.<sup>4</sup>

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1. 9 Hen. Stat. at Large, 275 and 337; 10 Hen. Stat. at Large, 82, 214, 259, 333; 11 Hen. Stat. at Large, 14.

2. U. S. Const. (1787) Art. I, sec. 8, cl. 12.

3. U. S. Const. (1787) Amend. II; see also Art. I, sec. 8, cl. 16.

4. Ala. Const. (1901) Art. XV, sec. 271; Ariz. Const. (1912) Art. XVI, sec. 1; Ark. Const. (1874) Art. XI, sec. 1; Colo. Const. (1876) Art. XVII, sec. 1; Fla. Const. (1887) Art. XIV, sec. 1; Ga. Const. (1877) Art. X, sec. 1, par. 1; Idaho Const. (1890) Art. XIV, sec. 1; Ill. Const. (1870) Art. XII, sec. 6; Ind. Const. (1851) Art. XII, sec. 6; Iowa Const. (1857) Art. VI, sec. 2; Kan. Const. (1861) Art. VIII, sec. 1; Ky. Const. (1891) sec. 220; Me. Const. (1876) Art. VII, sec. 5; Md. Const. (1867) Art. IX, sec. 1; Mich. Const. (1908) Art. XV, sec. 1; Miss. Const. (1890) Art. IX, sec. 1; Mo. Const. (1875) Art. XIII, sec. 1; Mont. Const. (1889) Art. XIV, sec. 1; Neb. Const. (1875) Art. XIV, sec. 1; N. Hamp. Const. (1784) Part I, Art. 13; Nev. Const. (1926) Art. XII, sec. 156; N. C. Const. (1876) Art. XII, sec. 1; N. D. Const. (1889) Art. XIII, sec. 188; Ore. Const. (1859) Art. X, sec. 2; S. C. Const. (1895) Art. XIII, sec. 1; S. D. Const.