

# Washington Law Review

---

Volume 18 | Number 2

---

4-1-1943

**Emmett S. Hughes; Harry M. Cross**

anon

Follow this and additional works at: <https://digitalcommons.law.uw.edu/wlr>

---

## Recommended Citation

anon, In Memoriam, *Emmett S. Hughes; Harry M. Cross*, 18 Wash. L. Rev. & St. B.J. 103 (1943).  
Available at: <https://digitalcommons.law.uw.edu/wlr/vol18/iss2/3>

This In Memoriam is brought to you for free and open access by the Law Reviews and Journals at UW Law Digital Commons. It has been accepted for inclusion in Washington Law Review by an authorized editor of UW Law Digital Commons. For more information, please contact [cnyberg@uw.edu](mailto:cnyberg@uw.edu).

# WASHINGTON LAW REVIEW

and

## STATE BAR JOURNAL

---

Published Quarterly, in January, April, July and November of Each Year  
by the Washington Law Review Association, at the Law School  
of the University of Washington. Founded by John T.  
Condon, First Dean of the Law School.

---

SUBSCRIPTION PRICE: \$1.20 PER ANNUM.

CURRENT COPIES 50c

---

ROBERT L. TAYLOR ..... *Editor-in-Chief*  
*and Business Manager*

R. H. NOTTELMANN ..... *Associate Editor*

---

### STUDENT EDITORIAL BOARD OF THE LAW SCHOOL

JAMES GAY, *President*  
JOHN B. KRILICH, *Vice-President*  
HENRY KASTNER, *Contribution Editor*  
LUCILE LOMEN, *Make-up Editor*

Don G. Abel, Jr.      John C. Braman      James D. McCutcheon, Jr.  
Melvin R. Bennington      Charles G. Flanagan, Jr.

### CONTRIBUTORS TO THIS ISSUE

BEARDSLEY, ARTHUR S., LL.B., 1918, B.S. (L.S.), 1924, M.A., 1925, Ph.D.,  
1928, University of Washington.  
COLE, KENNETH C., B.Lit., 1924, Oxford University; Ph.D., 1930, Har-  
vard University. Professor of Political Science, University of  
Washington.



### EMMETT S. HUGHES



Captain Emmett S. Hughes, 161st Infantry, 41st Division, met death in New Guinea while leading his company against a Japanese-held position, on the afternoon of January 17, 1943.

Before being called into military service, Captain Hughes practiced law in Seattle in association with Arthur E. Campbell. He had completed both his pre-law college work and his law studies at the University of Washington, receiving his Bachelor of Laws degree on June 8, 1940.

In the words of his regimental commander, "His service to his country and his Regiment exemplifies the highest tradition, of his always being a soldier, always an officer and a gentleman. . . . His fearless disregard of danger was an inspiration to his officers and men." Captain Hughes was posthumously awarded The Purple Heart, which recognition is given persons who perform an exceptionally meritorious act of extraordinary fidelity or essential service.

The vacancy on the Law School faculty created by the death of Professor Luccock has been filled by the appointment of Harry M. Cross as Assistant Professor of Law. Professor Cross received the Bachelor of Arts degree from Washington State College in 1936 and the degree of Bachelor of Laws from the University of Washington in 1940. During 1940-41 he was a Sterling Fellow at Yale University, where he did graduate work in law. In 1941 he accepted a position in the Office of the General Counsel of the Treasury Department in Washington, D. C., and transferred the following year to the Legal Department of the Tennessee Valley Authority at Chattanooga, Tennessee, coming to the Law School in January of this year. Professor Cross is especially interested in the field of Property and will teach the Property courses. For several years he was engaged in abstracting and title work with the Adams County Abstract Company and the Washington Title Insurance Company.

---

## RECENT CASES

---

**NEGLIGENCE—PROXIMATE CAUSE.** Defendant railway company allowed its train to stand partially across and to that extent block a city street for a period longer than permitted by ordinance and without using safety devices to stop vehicular traffic as required by ordinance. Plaintiff pedestrian, coming down the side of the street blocked by defendant's locomotive, was forced, in order to continue down the street, to leave the sidewalk and circle around the obstructing engine, at which point he was struck by an automobile coming around the engine from the opposite direction. The trial court sustained a demurrer to plaintiff's complaint in an action to recover from the railroad for personal injuries, and plaintiff appealed from the judgment of dismissal. *Held:* Judgment affirmed, defendant's negligence not being the proximate cause of plaintiff's injury. *LeRoy Smith v. Great Northern Railway Co.*, 114 Wash. Dec. 173, 127 P. (2d) 712 (1942).

The majority, while conceding, *arguendo*, that respondent's violation of ordinance constituted negligence *per se*, held that the train's partial occupancy of the city street merely supplied a condition by which the injury was made possible, the cause being the subsequent intervening act of the automobile operator. The case of *Webb v. Oregon-Washington R. & N. Co.*, 195 Wash. 155, 80 P. (2d) 409 (1938), where an automobile was driven into a train which had been standing on a crossing for a period prohibited by city ordinance, was cited, together with the decisions of several other jurisdictions, to sustain the principal holding.

The dissent opinion points out that while a person's negligence is not actionable if the new and independent negligence of another intervenes to produce the injury, this rule is subject to a recognized exception. The exception, as stated at 38 Am. Jur. 726, Sec. 70, is that "if an intervening cause was foreseen or might reasonably have been foreseen by the wrongdoer, his negligence may be considered the proximate cause of an injury, notwithstanding the intervening cause". The dissent distinguishes *Webb v. Oregon-Washington R. & N. Co.*, *supra*, on its facts.