

Washington Law Review

Volume 76 | Number 4

1-1-2001

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Recommended Citation

William B. Stoebuck, In Memoriam, *Harry Maybury Cross: In Memoriam*, 76 Wash. L. Rev. 991 (2001).

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HARRY MAYBURY CROSS: IN MEMORIAM

William B. Stoebuck

Just because you were from Ritzville, where Harry Cross was born on August 23, 1913, it would not mean you were “ritzy.” The town is a plain one, named, for a plain man, Philip Ritz, in the plains country of Eastern Washington, the county seat of Adams County. There Harry Cross grew up, graduating from Ritzville High School, valedictorian of his class. His parents were substantial citizens of the town, his father the owner of a title insurance company and a sometime member of the Washington State Legislature. All three of the Cross brothers must have been influenced by their father’s occupation; they probably helped in the business in their spare time. Brother Edward was to become a lawyer in Ritzville, and brother Robert was a future insurance agency owner in Eugene, Oregon. Harry, of course, had an abiding interest in titles and title insurance, working part-time during law school in a Seattle title insurance company and later, as a legal scholar, having a special interest in those areas of law.

From Ritzville High, Harry Cross continued his education at Washington State University. (Yes, the future keeper of Husky mascots was formerly a Cougar!) He graduated in 1936, having been editor of the student newspaper. Though he had sufficient credits to take his degree in journalism and perhaps another subject, he chose to take his B.A. in the “dismal science” of economics. Meantime, he had fallen in love with his wife for life, Mylenn (Linn) Gould, a Montanan, who had chosen to leave that state to operate her beauty salon in Ritzville. They were married on Christmas day of Harry’s senior year in college. Upon graduation, now with a wife to support, he took a job as a newspaper reporter on the Yakima Morning Herald, where he learned to type reporter fashion with two fingers (and never did add more fingers). But by the fall of 1937, Harry was enrolled in the first year of law school at the University of Washington. The Crosses’ first son, Harry, Jr. (“Pete,” a future lawyer, graduate of New York University law school, now believed to be the only patent lawyer in Montana!) had been born by then. So, Harry had to work part-time—as a title officer at Washington Title Company, of course—to support his family. Nevertheless, he excelled as a student, graduating near the top of his class of 1940, one of the Washington Law Review editors, and Order of the Coif.

Thinking probably of becoming a law teacher, Harry obtained a prestigious Sterling Fellowship to do graduate work at Yale Law School, where he spent the 1940–1941 school year. World War II intervened. Harry

entered legal work with the United States Government, first as a lawyer with the Treasury Department in Washington, D.C., in 1941–1942, and then with the Tennessee Valley Authority in Chattanooga during 1942–1943. After Professor Eugene C. Luccock died unexpectedly in early 1943, Harry was appointed assistant professor of law at Washington to replace him. Now he and Linn had two little sons, two future lawyers, Harry, Jr., and Bruce (“Puck,” Harvard Law, 1967, now a partner at Perkins Coie in Seattle); not long after, their third son, Kim, was born.

Harry took over Luccock’s classes—Real Property, Personal Property, Conveyancing, and Community Property—which were to remain the areas in which he taught thousands of law students and became a noted scholar, all during his long career at Washington. Particularly in community property, he became a national authority and certainly the final word in Washington. His articles on community property, first published in *Louisiana Law Review*, then later twice revised and updated in the *Washington Law Review*, the last time shortly before his retirement, were the gospel that saved many law students in his Community Property course, not to mention on the bar examination. He published in other law reviews, too, including his oft-cited article, *The Record “Chain of Title” Hypocrisy*, in *Columbia Law Review*. For Washington practicing lawyers, in addition to his community property law review articles, Cross,—together with his colleague Professor John C. Huston and Judge George Shields—wrote the *Community Property Deskbook*, published by the Washington State Bar Association.

To those of us who knew him closely as his students and as faculty colleagues who labored with him in his areas of law, Harry’s outstanding quality was his incisive and excruciatingly precise mind. It was the mind of a man born to be a property law scholar. Example: “It’s not ‘*Shelley’s Rule*’; it’s ‘the Rule in *Shelley’s Case*.’” Meatier example: “No, you’re wrong. You can’t say a grantor reserves a life estate and conveys a remainder. A remainder can follow only the conveyance of a preceding particular estate, usually a life estate [describing ancient principles of English common law]. It’s an executory interest, not a remainder. [His colleague knew that, of course.] Well, I don’t care if courts say ‘reserve a life estate and convey a remainder’; they’re wrong.” And adding as the final clincher: “I’ve taught you everything I know, and you still don’t know anything!” (These examples are not made up; they actually happened.) Harry had a mind that worked both vertically and horizontally: vertically, in that he traced specific principles of law back, back to their origins in larger principles; horizontally, in that he had an incredible capacity to see the interrelationships between specific principles that were on the same “level” with each other. He taught that way in class. He taught by the Socratic method, which in its pure form,

like Plato's Dialogues of Socrates, uses only questions, to lead the student to discover solutions on his or her own. But he used it only so far, eventually summing up with a brief lecture, which, following the class discussion that preceded it, was at a high level of abstraction, vertical and horizontal. And he was inclined to speak cryptically, with an economy of words, at that point. To the serious student, this was exhilarating learning from a master teacher, but the more lackadaisical student, who wanted to be "spoon fed," probably did not regard Harry as the teacher from whom he learned the most in law school.

Lest the reader think this is an embellished encomium, it must be said that Harry did have one Achilles heel. It was probably connected with the level at which he thought of legal questions: his conceptualizations *were* difficult to express in words. Surprisingly, despite his earlier experience in journalism, he was hardly the master of elegant English. The content of his law review articles was authoritative and profound, but the prose did not flow liquid and luminescent from his pen. Editors pored long over his often opaque constructions, to remove the dross without destroying the gold. Once he took a sabbatical leave, to complete the dissertation for his J.S.D., for which he had spent his year in residence at Yale back in 1940 and 1941. Yale wanted to help him complete it—their tribute to his standing as a scholar, actually to facilitate his obtaining the degree long after the normal deadline—and suggested that three connected articles on community property would suffice. But he never got around to doing it, certainly not from lack of knowledge of the subject, but in all probability because of "stage fright" over putting pen to paper.

Harry Cross was taciturn, laconic; that is obvious from what has just been said. One does not think of such men, but, rather, of men with Churchillian loquacity, as being leaders. But Harry was a leader and is best known to most people because of his success in positions of leadership. In the conduct of faculty business, he played the role of wise counselor, a most influential leader. He was personally popular, too, and not only because for years he and Linn sponsored the annual faculty picnics at their "family compound" in Kirkland. After serving as associate dean in the law school from 1975 to 1978, he was its acting dean in 1978 and 1979. The faculty had full confidence in his quiet, fair leadership, and the administration of the law school ran as smoothly as butter. And, before and after his deanships, from 1963 until his retirement in 1984, Harry was the University of Washington's athletic representative to the PAC-10 Conference, for a time serving as president of the PAC-10. And we must not forget the dog or, rather, the succession of Husky mascots that he and his family kept at their home in Kirkland. For many years, he was chair of the NCAA Committee on

Infractions, a most sensitive and demanding position. Then he became president of the NCAA, the only president who was elevated to that position without having been previously a member of the NCAA Council. It was that position of national prominence that put his name in *Who's Who in America*.

When he was 67 years old, Harry had to undergo heart bypass surgery. But he snapped back quickly, despite the annoyance of recurring bouts of infection in the leg from which the surgeons had taken veins for the surgery. He quickly returned to his long-time swimming exercise program, even adding some exercise, because his physicians wanted him to walk the mile back and forth for his leg problems. When he had to retire in 1984, it was not because of health but because of the then-draconian university retirement age of 70. Actually, because of the time of year in which his 70th birthday fell in August 1983, the regulations allowed him to teach the following year, so that he retired at age 71. Even then, the faculty would have liked to find some way around the regulations, saying among themselves, "we have lost a great resource, a treasure." His friends and former students honored him by funding the law school's first professorship, the Harry M. Cross Distinguished Visiting Professorship in Law.

Once or twice after retiring, he did come back as an "adjunct professor," to teach Community Property. But mostly he retired to his Kirkland home, to enjoy life with Linn, his children, increasing numbers of grandchildren—and of course the Husky mascots. His youngest son, Kim, and his family shared the home with the senior Crosses, which was a comfort to them. When he was about 80, he required another heart bypass, but again recovered quite well. Within several years, Linn, who had been plagued with health problems for some time, began to fail and betook increasingly to her bed. After she died in 1999, Harry said, "I miss her terribly." We saw him, at the groundbreaking for the new William H. Gates Law School building, in the summer of 2001, and he had lost much of his old stamina. But the end came rather unexpectedly. He slipped and fell, completely fracturing a knee cap; surgery was required, despite his age and history of heart problems. The surgery went well, and he began to be on his feet in the hospital. But complications set in. It was all too much, and his old heart gave out the evening of October 10, 2001.

Requiescat in pace, Harry M. Cross, my teacher, mentor, colleague, and friend—but always my teacher.

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Emeritus