

**Two Book Reviews of Morton Barrows:
“Handbook on the Law of Negligence” (1900).**

Morton Barrows' treatise on torts was published in 1900 by West Publishing Company. It was reviewed in two law journals:

1.

13 “Harvard Law Review” 533-534 (February 1900).

“As a result of the great increase of litigation over questions of negligence in the last decade, — says the author in his preface, — two tendencies may be noted, — toward the taking of increased precautions by property owners and employers of labor on the one hand, and the more exact enunciation of the involved law by the courts on the other. And to give a concise statement of the settled law on the subject, and the grounds of the conflicting decisions where the law is in dispute, are stated to be the aims of this book, the latest addition to the Hornbook Series. An introductory chapter treats of the fundamental principles of the law of negligence, and contains an admirable brief discussion of the doctrine of proximate cause.

“In the chapter treating of dangerous instrumentalities, it is stated that one who keeps a dangerous explosive is under a duty of care commensurate with the danger, and hence negligence may be predicated upon the quantity without regard to the manner in which it is protected. To say that an absolute liability is imposed, where the location is such as to cause reasonable fear to those living in the vicinity, would seem to be a better doctrine. See 13 Harvard Law Review, 310. It is to be regretted that to the present jumble of theories as to degrees of care, the author adds still another view. Taking the classification of Wharton as a basis, — “slight” care required of the average man, and “ordinary” care required of an expert, — he adds a third class, — “great” care required of a common carrier of passengers. In justification we are told that the decisions of the courts have raised the degree of care and skill demanded of such

carriers to a standard higher than that of an expert. Granting the truth of this assertion, and the theoretical accuracy of such a classification, it would seem nevertheless to work for simplicity to say that, although the amount of care requisite may vary with each particular instance, there are no degrees of care, due care under all the circumstances answering every case. Nor does the author himself maintain his position with consistency; for in the later pages of the book the term "ordinary" care is frequently used in the colloquial sense, and there are such statements as the following: "The degree of diligence requisite to constitute ordinary care " — in dealing with firearms — "is proportionate to the danger to be apprehended." This is but another way of stating the more simple rule. Although open to occasional criticisms, however, the book as a whole is an excellent one. It contains a clear and accurate statement of the existing law, and a full marshalling of authorities. The method of printing the propositions of law in more prominent type than the discussions that follow gives them an added emphasis that is of much help to the student. In every way, this work is fully up to the standard of usefulness set by the previous volumes of the Hornbook Series. E. S. T."

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49 "Central Law Journal" 472-73 (December 15, 1899):

"This is another of the West Publishing Company's excellent Hornbook series. The author is Morton Barrows, an active practitioner of twenty years' experience in St. Paul. The author has managed to crowd an immense amount of condensed law into 650 pages, and from his long experience in practice he has evidently learned what his fellow practitioners want to enable them to quickly find the law. Within these pages he seems to have condensed about all that may profitably be said on the subject of negligence, and so conveniently and systematically arranged that one may turn within a few minutes to any branch of the subject. Negligence cases have grown to such proportions and of such frequent occurrence, and

still on the increase, that every practitioner needs all the aid he can obtain from books to keep up with the law. The author has done what many authors fail to do; has arrived at conclusions, and not contented himself with simply presenting to the reader the various conflicting decisions of the courts leaving him to form his own conclusions, but has drawn conclusions from these conflicting opinions of courts of last resort. This book shows how much after all must be left to the judgment of the jury, as no rule can be found sufficiently elastic to meet the requirements of the varying circumstances which influence the conduct of those menaced by sudden danger. The so-called prudent and careful man so often set up as a model, acquires these qualities under circumstances which admit of mature deliberation. What this character of man will do under circumstances where opportunity for deliberation is lacking, and when confronted by sudden danger, must be a matter of conjecture. Persons of flighty and unsteady habits often evince remarkable presence of mind under trying circumstances, while the phlegmatic man, under like circumstances, sometimes becomes completely demoralized. The mechanical execution of this book is very good.”