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Note on Statham's Abridgment

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former West Virginia statute, or it may be fixed with reference to the time of entry of the judgment. In either case, it would seem desirable to have the time definitely fixed by statute, in order to relieve litigants from the uncertainty that will prevail, and the courts from the troublesome task that they must assume, if the courts are required in each case to determine what is a reasonable time. Some courts have got rid of the uncertainty, at the same time insuring that they will not contravene any restrictions imposed by Pennoyer v. Neff, by construing that case as requiring levy of the attachment before publication of process. In New York, after a period of uncertainty as to the meaning of Pennoyer v. Neff, the uncertainty was resolved by express statutory requirement that levy of the attachment precede the publication of process.

Leo Carlin.

NOTE ON STATHAM'S ABRIDGMENT

For three centuries or so, it has been customary among legal historians to admit a woeful lack of knowledge when it came to identifying the compiler of Statham's Abridgment. Professional tradition originally ascribed the work to Nicholas Statham, but

24 See cases cited in note 22 supra.

1 Winfield, Chief Sources of English Legal History (1925) 206: "We shall speak of Statham's Abridgment in order to avoid constant periphrasis, but, so far as we know, there is no direct proof, external or internal, that Statham compiled it. In fact, we have no positive knowledge of who was the author or of the date of the printing of the book. What we know of Statham himself is little enough. Even his Christian name is uncertain, and so is the spelling of his surname."

2 Dugdale, Origines Juridiciales (1666) 58; 2 Holdsworth, History of English Law (1933) 543; Radin, Handbook of Anglo-American Legal History (1936) 321. The issue as to authorship arises out of the absence of any title-page, as well as the complete lack of evidence within the printed book itself regarding the editorial source.

Y. B. 4 Edw. II, Selden Society, vol. 26 (1914) Introduction by G. J. Turner, xxxii-xxxiiv: "Statham's Abridgment has been generally assigned to a certain Nicholas Statham, a member of Lincoln's Inn who became Lent reader of that Society in 1471 and died in the following year. His book probably printed at Rouen about eighteen years after his death by Guillaume le Tailleur for Richard Pynson of London, though quite possibly printed in London by Pynson himself, is remarkable as being, apart from a few Year Books, our earliest printed law book. Though generally described in catalogues as an 'Abridgment of Cases to the end of K. Henry VI.', it has in fact no title-page, and its authorship can only be deduced from the fact that it was consistently described as 'Statham' by writers and reporters of the sixteenth century . . . . It may be observed, however that it contains a few notes of cases of the reign.
without any very clear notion regarding the Christian name or the spelling of the surname; the later and more specific reference to John Statham, as "a learned man in the laws whereof he wrote an Abridgment" merely served to deepen the mystery. Someone had indeed prepared a manuscript digest of the vast technical system of medieval law,—the first such law-book ever to be printed,—yet its authorship remained an unsolved riddle. A recent mono-

of Edward I., and that from 1 Edward II. to 38 Henry VI. nearly every year is represented in the volume . . . . Its earliest entries are very brief notes; but among later ones are divers long reports, some of which are not to be found in the printed Year Books."

A BIBLIOGRAPHY OF ABRIDGMENTS (etc.) TO THE YEAR 1800, Seldén Society (1932) by John D. Cowley, xxxix-xl: "This book was printed without title, date or colophon about 1488, and consists of a small folio of 100 leaves, of which the first two contain a list of titles to which the words "Per me, R. Pynson" in Gothic type are appended; the remainder of the work consists of an abridgment of cases to the end of Henry VI under titles arranged in rough alphabetical order; on the verso of the last leaf is the device of Guillaume le Talleur of Rouen, to whom Pynson had probably been apprentice. The text is printed in a 'Secretary' type, and from the peculiarity of the type and the presence of the foreign printer's device it has been conjectured that the book was printed in Rouen by Le Talleur for Richard Pynson.""

The original spelling of the name was Statham and this survived until about the end of the fifteenth century, when Statham became the usual form. It is not a name which, at first sight, would appear to lend itself to much change of form; but the following variations have been met with in documents and church registers: Stathome, Staytham, Staythome, Staten, Statone, Stathom, Stathame, Stuthen, Statham, Statum, Statom and Stothum. Ames, Typographical Antiquities (1790) 284, spelled the name "Stratham", Winfield, op. cit. supra n. 1 (at p. 214, n. 2) comments: "We suppose that when Braton becomes generally recognizable under his correct name, Statham will be reinstated in his."

Presumably the error has been caused by sixteenth-century legal writers utilizing the current usage, without realizing the vowel change that had occurred in comparatively recent decades theretofore.

* Fuller, History of the Worthies of England (1662) 233, lists thus, under the general heading "Derbyshire," and the specific subtitle "Capital Judges and Writers on the Law," John Statham, as having been born in that county in the reign of Henry VI. It might be added that Fuller was not a lawyer nor one with authoritative legal information on the point. Winfield, Chief Sources of English Legal History 210.

2 Holdsworth, History of English Law 543, n. 8: "Thus, if we except the Year Books and Littleton's Tenures, it was one of the earliest law books to get into print." The date of its printing has invited considerable speculation by legal historians. It must have been later than 1461,—the date of the last case abridged. Winfield, Chief Sources of English Legal History 211-213, places the year as 1495; Plucknett, Concise History of the Common Law (2d ed. 1936) 244, and Radin, Handbook of Anglo-American Legal History 233, suggest 1490 or 1495; Beale, Bibliography of Early English Law Books (Ames Foundation 1926) 188, 287, Holdsworth, ut supra, and Turner, op. cit. supra n. 2, at xxxi, fix on 1490; Cowley, op. cit. supra n. 2, at xl, 1, favors 1488; and 1 Klingelsmith, Statham's Abridgment (1915) xvi, puts the latest date at 1480. Incidentally, Cowley (at xliii) asserts positively that there was no second edition of the Abridgment.
graph on the Statham family casts new light on the problem, and one can now determine with safety that Nicholas and John were separate individuals. Even more important, perhaps, there is considerable additional data as to Nicholas that must undoubtedlly prove of value, if ultimately the source of the Abridgment bearing his name is definitely to be established.

Before going into any detailed discussion of the Stathams, a word should be said as to the importance of the early Abridgments. There were but four of these covering the Year Book period — Statham, the Abridgment of the Book of the Assises, Fitzherbert and Brooke, — and their recognition as primary sources for investigation of early common law can hardly be overstressed. They were collections of formative judicial materials out of which modern decisions were to be made, — so that the story of the Abridgments is in miniature the history of English law. As practical epitomes of existing case-law, free from the faults of theorists and pedants alike, these volumes were far more useful to the bench and bar of the time than most of the heavy treatises in the present.

Statham’s Abridgment was the first in order, — not that this was the original one to be compiled, but simply that it was the first to be printed. As a matter of fact, various manuscripts have been found, dating back to the beginning decades of the fourteenth cen-

6 The full title reads, — "THE DESCENT OF THE FAMILY OF STATHAM" , — printed by the Times Book Company, Limited, London. REV. S. P. H. STATHAM, its author, Late Scholar of Queens’ College, Cambridge, and Member of the Historical Society of France, has published other studies dealing with the history of Dover.

W. P. Statham, Esq., of Phoebus, Virginia, — a descendant of John Statham of Hareley, — has supplied a copy of this scarce monograph.

7 TANNER, BIBLIOTHECA BRITANNICO — HIBERNIA (1748) 690: "Statham Nicholasus Johannes dictus, et apud Morley comit. Derb. natus." WINFIELD, CHIEF SOURCES OF ENGLISH LEGAL HISTORY 210 adds: "But it is suggested that John and Nicholas were separate persons. Tanner’s identification of them seems to have been a combination of what he found in Fuller and Dugdale, and an anticipation of the principle on which Mr. Potts’s reader in Pickwick Papers composed his article on Chinese metaphysics."

8 WINFIELD, CHIEF SOURCES OF ENGLISH LEGAL HISTORY 202: "But Statham, Fitzherbert and Brooke are not to be regarded as mere epitomes of something which we can find printed at length elsewhere. They incorporate cases many of which are not discoverable in the Year-Books, though of the Year-Book period. For us, as well as for several generations before us, they must often be regarded as primary sources, for there is no doubt that their compilers had access to documents that have either perished or have never been identified, and that were not always the same reports as those embodied in the printed Year-Books. (It must be borne in mind that the term "abridged" had a special meaning to the early lawyer. To abridge was not necessarily to shorten the Year Book report of the decision, — but rather to put this in one form or another under the appropriate subject-heading. Thus, originally each abridgment represented an alphabetical group of leading cases, which were deemed to be of importance or significance by the respective compiler.)
tury, which attempt analysis of the Year Book cases under subject headings; and one must infer that a degree of enterprise, rather than any natural inventiveness, permitted the Statham compilation to appear in book form before any of the others. In any event, Statham was “a product of the scissors-and-paste method”,

9 Winfield, Chief Sources of English Legal History 205, mentions two MSS in Lincoln’s Inn Library, “all in a hand of Edward II’s reign” (1307-1327), which group under procedural headings cases of the Year Book of 30 and 31 Edward I (1302), — listing such heads as “Droit de Garde”, “Value de mariage”, “Entry” and “Quare impedit”. Winfield adds: “When, therefore, we reach the period of Statham, we may be sure that he was not the inventor of the scheme on which his abridgment was based.”

10 Plucknett, Concise History of the Common Law 243-244: “... lawyers were apt to collect old Abridgments, take them to pieces and reassemble them in one large alphabet. ... As with all the earlier Abridgments the arrangement of the cases within the titles [of Statham] is curious, and seems only explicable by supposing it was based on a composite volume which had been made up from the fragments of earlier Abridgments. ... In Fitzherbert, as in Statham, the cases are grouped in a peculiar manner and the conclusion is irresistible that his book, too, was a product of the scissors-and-paste method.”

It must not be thought, however, that Statham’s report of a case was not complete nor instructive: both these requisites were usually present. For example, Statham abridged (17da) from Y. B. Mich. 35 Hen. VI, p. 11, pl. 18, a contemporaneous decision regarding the liability of an infant for his torts, — with the facts of which Statham was no doubt well-informed personally. (Fitzherbert’s later version is both incomplete and limited.) Statham’s account of the case read (translation in 2 Klingelsmith, Statham’s Abridgment 1200-1201, case 93): “An infant under the age of five years, who had put out the eye of another with an arrow, was taken before Fortescue, Prince and Danby, and other Justices of Oyer and Terminer at Newgate. And it was asked of the same Justices if an action lay against him for this cause. And they said, ‘No’, because the law could not punish him so that others of such an age would take an example from him; for if he answered for the damage, others of a like age would not take an example from him. But they would more likely take example from him if he were beaten with a whip or rod. And the law for the punishing of trespass was ordained with the intent of punishing transgressors so that others might take example by them, etc. But they said that he was, before the age of seven years, in the same case as an ox or a dog which does damage to a man, in which case no punishment lies against them; but peradventure against their master an action would lie, etc. Which, query.” (An interesting side light on the case from its Year Book report is supplied in 1 Klingelsmith xxiii: “A writ of trespass was brought against an infant. Wangford declaired against the defendant, and Billing came and defended and said, ‘Sir, you are plainly that this defendant is only four years old, so it is clearly proven that he had not discretion to make a trespass, and does not know malice.’ Moile (Moyle) said to Wangford: ‘Can you find it in your conscience to declare against this infant of so tender an age? I think he does not know what malice is; for he is not a person of great strength, and that you can see with your own eyes.’ And, upon that, Moile lifted up the infant in his hands and put him on the bar, and said to Wangford, ‘Here is the very person and therefore he advised.’ Wangford was apparently somewhat confused, but he felt he must do something for his client, so he said, ‘I do nothing except what I was told, and here is the party and the trespass clearly upon him, for by this trespass one of his eyes was put out.’ And then [after further discussion between court and counsel] Billing asked for the appointment of a guardian, whom Moile willingly appointed.”)

— Y. B. Mich. 35 Hen. VI, pl. 18.
with a composite collection of fragments of earlier unprinted
digests of decisions, published towards the close of the fifteenth
century. Luminous, dignified and solid, it represented the earliest
type of abridged information as to the progress of the common
law; and probably bore the same relation more or less to the later
works of Fitzherbert and Brooke,\textsuperscript{11} as did Dane's \textit{Abridgment} to
\textit{Ruling Case Law}.

The present monograph could scarcely be expected to clear up
the difficulty as to the \textit{Abridgment}'s authorship, yet it does furnish
an excellent account of the Statham family during the fifteenth
century. In it one learns that the name was derived from the
manor of Statham\textsuperscript{12} in the vill of Lymme, county Chester, — a
township that from Domesday on had been held in two moieties, one
of which towards the middle of the thirteenth century furnished

\textsuperscript{11} According to \textit{Cowley} (\textit{op. cit. supra}, n. 2, at xli-xlvii, xlix-1), \textit{Fitzherbert's Abridgment} was originally printed in 1516, with two later editions in 1565 and 1577, respectively. That of \textit{Brooke} appeared first in 1573/4, and its second and third printings were in 1576 and 1586. While these dates are of course controversial, there seems no reason for doubting \textit{Cowley}'s conclusions.

\textsuperscript{12} S. P. H. \textit{Statham} has explained (at xiii) that the vill of Lymme was held as to the Statham moiety by Gilbert de Venables, baron of Kinderton, at the time of the Domesday survey (1086). Later, the paramount rights of that moiety passed into the hands of the Haltons, and through them to the Lymmes and Stathums. The last recorded reference to the Cheshire (or elder) line of the family occurs in 1486 (\textit{Coram Rege Rolls,} 1-2 Hen. VII, m. 7d.). The younger branch having settled in Derbyshire, the connection with the manor of Statham was gradually lost. After the family had ceased to be identified intimately with the place-name (\textit{3 Victoria County History of Lancashire} 332n., 333n.) towards the close of the fifteenth century, it was but inevitable that the historic spelling should be lost sight of. In other words, as long as there was a family relation to the manor of Statham, county Chester (\textit{2 Yeatsman, Feudal History of Derbyshire} 144), the ancient name persisted: when that was gone, a sixteenth-century vowel change ensued.

S. P. H. \textit{Statham} makes the prefatory observation (at xiv): "It is somewhat remarkable that it has been possible to trace throughout a thousand years a family which, however distinguished in its origin, has in later times possessed neither titles nor great wealth. Through all these centuries, how-
erver, there emerge two main characteristics which have prevented the family from being insignificant, \textit{viz.}, loyalty to the service of the Church and State. From the earliest times there has been a continuous stream of soldiers, lawyers and clergy, and most of them have been sufficiently eminent to gain some passing notice in the records of the time."

\footnotesize

The foregoing Year Book of 35 Henry VI was printed by John Lettou and
William de Machlinia in London about the year 1482 (\textit{Beale, Bibliography of Early English Law Books} 182), yet no folio reference to the printed
volume occurs, marginally or otherwise, in Statham's report of that case. On
the other hand, even though Statham were itself printed a few years later, the
printers in Rouen might not have had available there for reference purposes
the Machlinia Year Book. And, after all, there are no such folio references
contained within the first edition of Fitzherbert, which appeared in 1516. Inci-
cidentally, the 1679 (Vulgate) edition, in printing the Year Book account of
this case, refers to Fitzherbert and Brooke,—but not to Statham.\textsuperscript
the patronymic de Statham,\textsuperscript{13} — that spelling surviving until the close of the Wars of the Roses. Ralph, second son of Hugh de Statham,\textsuperscript{14} seems at an early date to have founded the Derbyshire branch through his marriage with Goditha, the final co-heiress of the Morleys in that county. Thus it is that Thomas de Statham was lord of Morley, county Derby, during the opening years of the fifteenth century. John, his only child and heir, later became a member of the prominent Derbyshire gentry, officiating as one of those appointed to receive the oaths of fealty in 1433 and serving as Sheriff of the county a dozen years thereafter.\textsuperscript{15} Owner of a very considerable estate he died in 1453 leaving four sons, — Thomas, Henry, Nicholas and John: with the latter two of these, historians have been chiefly concerned.

So far as is known, neither Thomas (who died in 1470) nor Henry (who survived him by a decade) played any active part in public affairs outside the county. On the other hand, Sir Nicholas de Statham, Kt., as a younger son, was very definitely interested

\textsuperscript{13} The earliest known reference to the use of the surname Statham is found in a thirteenth-century charter witnessed by Sir Simon de Statham, who was apparently the third son of Hugh de Lymme. The Kinderton half of the vill of Lymme, including Statham and other manors, had been settled on the younger son, so that Simon could then make it his principal residence, and distinguish his family from other de Lymmes by assuming the patronymic de Statham, (S. P. H. STATHAM, THE DESCENT OF THE FAMILY OF STATHAM 8-22). The de Lymmes, in turn, were descended from Richard fitz Nigel, baron of Malpas, (county Chester); they acquired Kinderton at an early date, and held it of the Honour of Halton. Farther back, the line can be traced through the Haltons to the family of Saint Saviour of the Cotentin, in Normandy. Beyond this, evidence as to ancestry is most uncertain.

\textsuperscript{14} After Simon de Statham, the manor passed in lineal descent to William, Robert, William and Hugh, — each being successively the eldest son of the preceding owner. Hugh, who died prior to 1405 (S. P. H. STATHAM, 27), left issue John, Ralph and Thomas. Again it was a younger son, Ralph, who carried on the family tradition by founding a new stock: Ralph's marriage with Goditha (JEAVES, DERBYSHIRE CHARTERS 1726), brought him not only the manor of Morley as his family seat in Derbyshire, but also half the manor of Callow (co. Northants), and extensive land holdings elsewhere. Thenceforth on, the records refer to the Stathums of Morley, in Derbyshire: it will be noted that during this century the Morley line never apparently used the Statham spelling. FULLER, HISTORY OF THE WORTHIES OF ENGLAND, utilized the version Stathom in his discussion of Derbyshire "worthies"; TANNER, BIBLIOTHECA BRITANNICO — HIBERNIA, in his confused reference correctly observes that Statham was born at Morley, county Derby.

\textsuperscript{15} The descent is traced from Ralph de Statham, through his eldest son Thomas, — who died in 1416, — to John de Statham, the latter's only son and heir. John's achievements have been fully recorded (GLOVER, HISTORY OF DERBYSHIRE); FULLER, HISTORY OF THE WORTHIES OF ENGLAND 239, 242, also states John was sheriff of Nottinghamshire, as well as Derbyshire. (See S. P. H. STATHAM 37-39, — citing references). Henry, the second son of John (Senior), likewise served as Sheriff of those shires in 1475 (WINFIELD, CHIEF SOURCES OF ENGLISH LEGAL HISTORY 207, p. 3.)
in political life of the time. Locally, there were plenty of Patent Rolls references to his services on Commissions of the Peace for Derbyshire between the years 1462 and 1472, and he was mentioned frequently as a fiduciary for relatives and friends.16 Away from the family seat, in 1467 he served as Member of Parliament for Old Sarum;17 and was granted during good behavior the reversion of the office of Second Baron of the Exchequer, "immediately after the present holder John Clerke dies."18 While there exists no evidence that he ever enjoyed that position, it is certain that in 1471 he was named along with three others as a Justice to enquire into the rebellion in the counties of Kent and Surrey. Similarly, he served as Justice to try the rebels within the Cinque Ports. Meanwhile, Nicholas is recorded as having been chosen one of the governors of Lincoln’s Inn on several occasions within a period from 1456 to 1470; and finally, in 1471, he is mentioned as Lent Reader of that Society.19 His will was executed in London on July 15, 1472, and proved August 5, the same year.

John Statham, the fourth son, has been confused with his brother Nicholas as a candidate for the honor of having edited the

16 S. P. H. STATHAM, 42 (e. g., PATENT ROLLS 11 Edw. IV as to his 1471 appointment as Justice). In 1468, Nicholas served as executor under the last will and testament of John Heron, deceased (Cox, DERBYSHIRE CHURCHES 950).

17 Nicholas referred specifically in his will (S. P. H. STATHAM, 101-102; 6 WATTS 52), to his Parliamentary experience: "Item, I received vxsh. of [name not given] Bemont, a worshipful squier of the West Counties, by the handes of Page in the last Parliament. I did nothing therefore, and yff I did yet it is agenst my conscience, for forasmoche as I was one of the Parliament and shuld be indifferent in every matter in the Parliament, I wil he have it augeyne."

18 PATENT ROLLS 7 Edw. IV, m. 17. According to FOSS, THE JUDGES OF ENGLAND (1870) 168, 630, 727, John Clerke was raised to the bench of the Exchequer as Second Baron by Henry VI, October 29, 1460; and apparently served under Edward IV during his first reign,—for he received new patents from Henry VI on re-assuming power in 1470, and from Edward IV when the latter took over again six months later. Thus, Clerke was Second Baron in 1471: Nicholas de Statham’s will was probated in August 1472, so that he could not have held the post for more than a year at most. In any event, the next mention of the office occurs in 1481, with the appointment as Second Baron of Thomas Whittington, (a grand-nephew of the famous Lord Mayor Richard Whittington). It is doubtful whether the office was vacant from 1472 to 1481; and one surmises that Clerke outlived Statham by several years. Nicholas has thus probably had an unwarranted reputation as Exchequer Baron.

19 TURNER, op. cit. supra n. 2, cites to that effect 1 BLACK BOOKS OF LINCOLN’S INN 53. WINFIELD, CHIEF SOURCES OF ENGLISH LEGAL HISTORY 207 also refers to DUGDALE, ORGNES JURIDICIALES 249, 257-258. As to the duties of the Reader of the Inn, see 2 HOLDsworth, HISTORY OF ENGLISH LAW 506-508; at 507, Holdsworth observes: "That these readings and the discussions which followed them at moots and otherwise were serious contributions to legal knowledge can be seen from the fact that they were cited in argument in the courts" (Dyer 2b note; Flowden 69).
Abridgment. If one can venture onto the quicksands of surmise, there never was real proof available as to John’s authorship, nor that he had any interests whatsoever in law or in scholarship. More accurately, he appears to have resided quietly in Derbyshire, as grantee of the castle of Horston,20 taking full advantage of his patented exemption from being put on any juries, — from being made mayor, bailiff, sheriff or coroner, — or being appointed “any officer, commissioner or minister of the King.”21 Certainly, the references to John in the respective wills of his brothers Thomas and Nicholas do not designate him as one of outstanding prominence. In all probability, later historians were simply looking for some known persons bearing the Statham name, to whom the Epitome Annualium Librorum tempore Henrici Sexti22 might reasonably be ascribed. Mixing up the father and son with the same Christian name, it was almost inevitable that Johannes Statham23 became suspect. Whether or not Nicholas ever participated in the compilation of the Abridgment, one may surely conclude that neither John had anything at all to do with it.

The volume at hand thrice refers24 to Nicholas’ authorship of the Abridgment, — statements which one ought perhaps to credit to the honest and generous enthusiasm of its writer. Though historians are deeply indebted to him for his minute and accurate researches into Statham pedigree, it is unfortunate further evidence has not been adduced on this most controversial point. The achievement here is rather of an indirect sort: there has been set forth in scholarly fashion new information as to the life and background of the most likely lawyer responsible for the compilation. From these additional facts, the legal antiquarian may draw such inferences as may be permissible.

What in short are all the various items of evidence from whatever source, in favor of the claims of Nicholas de Statham?

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20 S. P. H. STATHAM, 45-46 [quoting JEYES, DERBYSHIRE CHARTERS (1906)] 2362. The villa of Horsley belonged to the castle and lordship of Horston: he was thus subsequently known as John Statham of Horsley, co. Derby. It is possible that he may have settled at Lime, near Morley, living in the Hall there.

21 PATENT ROLL 22 Hen. VI, excerpts being set forth in S. P. H. STATHAM, 45.

22 S. HOLDSWORTH, HISTORY OF ENGLISH LAW 543, after quoting that as its common description, remarks the title is misleading, in view of the scope of the Abridgment (Edward I to 38 Henry VI).

23 Originally FULLER, HISTORY OF THE WORTHIES OF ENGLAND, and later TANNER, BIBLIOTHECA BRITANNICO-HIBERNIA, caused the confusion. As observed above, n. 4, Fuller’s lack of legal training perhaps made him be overcredulous.

24 S. P. H. STATHAM, xiv, 42, 46.
1. As governor of Lincoln's Inn, — not once but half-a-dozen times over a fifteen-year period, — Nicholas was unquestionably an outstanding member of the bar during the early years of the Yorkist ruler. Wholly apart from his previous education at the Inn, he must have been one of highly-cultivated mind after the manner of late fifteenth-century England. And by virtue of his rank among lawyers, he could assume repeatedly the onerous direction of his Inn in three tumultuous decades.25

2. In public life, Nicholas seems to have been one of exemplary character. Having regard to generally prevailing standards in medieval centuries,26 a single glance at his will must reveal an unusual devotion to principle. Even without yielding to the temptation of ascribing every moral excellence to one who is thought to have left such an imperishable monument, his public offices must certainly indicate the complete confidence of the sovereign.

3. Granted Nicholas was no ordinary man in the law, what the precise extent of his legal attainments may have been is difficult to determine. Presumably, during the period of apprenticeship in Lincoln's Inn, he labored there in obscurity without recognition other than that which was due seniority; afterwards in the terms as governor he was more or less responsible for supervising educational practices. Most important, however, he was selected as Reader and thus charged directly with the task of teaching the common law

25 During the Wars of the Roses, disorder was common, and the responsibility of the governors of the Inns a very serious one. SELECT CASES IN THE STAR CHAMBER, SEDDEN SOCIETY, vol. 16 (1902). INTRODUCTION EX: "Affrays by the young gentlemen of the Inns were not uncommon. 'The thirteenth day of April 36 Henry VI (1458) there was a great fray in Fleetstreete, between men of court and the inhabitants of the same streete, in which fray the Queenes attorney was slaine. For this feate [sic], the king committed other principal governors of Furnivals, Cliffs and Barnardes Inn to prison in the Castle of Hertford.'..." 5 May 8 H. 8. The Ancients of the Inns of Court being present before the Star Chamber]. It was advised that they should not suffer the gentlemen students to be out of their houses after six o'clock at night without very great and necessary causes, nor to wear any manner of weapon.'... 'The Star Chamber was wont to keep an eye on the Inns of Court, to which may be added and of Chancery." It was a very real tribute to Nicholas that he was thus frequently chosen for so great a trust.

26 HODESWORTH, HISTORY OF ENGLISH LAW 565: "We must of course make allowance for the manners of the time. Presents to the officers of the courts and even to the judges themselves were not regarded quite in the same light as we should regard them at the present day. No doubt they would not be taken by the best judges—but all officials, and even all the judges, did not attain the same high standard. 'The custom of the trade' has always covered many questionable acts; and Bacon's view that he fell a victim, and rightly fell a victim, to a higher standard of judicial morals has in it much historical truth." Hodesworth quotes Bacon (7 BACON'S WORKS 179): "'I was the justest judge that was in England these 50 years; but it was the justest censure in Parliament that was these 200 years.'"
to those about him, — and his was the arduous duty of instruction during "the learning vacation." If "taught law" meant "tough law" then as always, Nicholas needed sound case-law background for proper analytical and dialectical methods. It is not unreasonable to deduce that an abridgment of sorts was absolutely requisite to his successful teaching. 27

4. It is proven by the will of Sir William Callow28 (Calowe or Collow), Judge of the Common Bench a dozen or so years after Nicholas' death, that there was then in exist-

27 In other words, towards the close of the Year Book period, occasionally the Reader of the Inn (and particularly the vacation Reader) might compile for himself out of a vast mass of Year Book MSS an abridgment of sorts for use in his teaching labors,—which would be more or less of a glorified "case-book," tabulating hundreds or even thousands of decisions yet boiling them down into note form under convenient headings. Naturally it is possible enough that the Reader sought assistance of others in the compilation: in all probability, he needed considerable aid in the job of revising earlier "case-books" and bringing down to date, by dropping obsolete matters while adding new doctrines and new interpretations of statutes. And, like any law teacher, he could then insist on his own theories and methods of instruction, in utilizing his own compilation. All this presumes the Reader wore an exceptional scholar, who felt existing materials in use imperatively required improvement: the ordinary one continued supposedly to stick to the revision of the decade or so before. Traditional practice in the Inns must have kept the law in abridgments pretty close to the law in action, so that neither antiquarian legal history nor movements towards legal reform ever crept very far into these unusual educational tools.

Applying these speculations to STATHAM'S ABRIDGMENT, one may infer that Nicholas de Statham undertook and carried through a timely revision of the instructor's "case-book" then current at Lincoln's Inn,—assuming he possessed adequate legal scholarship for the task. As Reader, he was assisted in it both by the critical suggestions of senior members and by actual services from younger apprentices. It turned out to be an excellent compilation, and coincided roughly with the advent of printing in England; in consequence, as the best and most recent abridgment, the work appeared in printed form some years later. (See 1 KLINGELSCHMIT, STATHAM'S ABRIDGMENT xvii, and PLUCKNETT, CONCISE HISTORY OF THE COMMON LAW 243.)

It is interesting to compare the foregoing theory regarding the authorship of Nicholas with the known facts as to Robert Brooke, who lived three quarters of a century later. Like Statham, Brooke held readerships in the Middle Temple during 1542 and 1551. Similarly, he was apparently dissatisfied with existing abridgments, then in use: and it must be remembered that these included the three-volume 1516 Fitzherbert, along with Rastell's Tabula to Fitzherbert. Hence, revision was undertaken and completed before his death in 1558; and, finally the publication of BROOKE'S ABRIDGMENT was also posthumous, appearing in 1573. (Another curious circumstance in this connection has to do with the writer's 1577 copy of Fitzherbert. This bears the name of Thomas Pagitt, who twice served as Reader at the Middle Temple in the last decades of the sixteenth century. Clearly, an abridgment was absolutely necessary to the teacher, and Pagitt may have had the final edition of Fitzherbert.)

28 Callow was raised to the judicial seat in the Common Pleas, January 31, 1487. His will was executed October 5, 1485, and probated February 4, 1487/8, (TURNER, op. cit. supra n. 2, at xxxiv, citing 7 MILLES): thus the only record of his brief period of service is the single fine levied before him—in the following Trinity Term.

Callow's generosity as regards his law books (the Book of Assises, a BRACON,
ence a "booke of Briggemeute of Lincolnesin labour," — which Callow bequeathed to his associates "such as entende to en-
crease theimselfe in the lawe." Mr. Turner has suggested the
possibility that this booke was the work later attributed to
Nicholas, the inference being that it was produced at Lincoln's
Inn as a joint enterprise under Statham's direction, during
the months of his readership. Professor Winfield has also
hinted that the "scrapy" nature of the Abridgment may have
been due to the editor's plan of finally revising the manuscript:
the lack of opportunity of doing this would fit in fairly well
with Nicholas' dying shortly after his teaching duties. The
presence today in the Lincoln's Inn library of early manuscript
abridgments covering the more remote Year Book period may
be slight evidence of a traditional interest fostered by the Inn
as regards such compilations. Beyond Callow's will, of
course all this is sheerest speculation.

5. The most persuasive single circumstance is the six-
teenth-century theory as to Nicholas' authorship. In 1585.
Bellewe specifically mentioned the work as "Statham." —
a collection of new Statutes, and two Abridgments) might possibly indicate
a prevalent custom among lawyers of passing along to one's intimates the
primitive store of books or manuscripts gathered during busy years of practice.
If so, the wonder is not that Nicholas, a Reader of the Inn, failed to bequeath
specifically his Abridgment (assuming indeed he edited it),—even though he
did mention in his will the collections of old and new Statutes, his Register
of Writs and Natura Brevium. If he had prepared the Abridgment for the
peculiar use of Lincoln's Inn, it is not likely that he would have claimed prop-
erty in the manuscript to the exclusion of his fellow members (who might have
participated in the very compiling and revising). Having regard to Nicholas'
character, one may guess that he turned over to the Inn all MSS of value to
its Library, without testamentary mention of the fact. (Callow's case was
different: there is no evidence that he ever compiled his materials in connection
with teaching duties.)

Incidentally, Nicholas' father was owner of the manor of Callow; but Sir
William Callow seems to have come from Lincolnshire.

29 Turner, op. cit. supra n. 2, at xxxiv. Of course, the "Lincolnesin labour"
may denote merely that this was a copy of the Abridgment even then (1485)
in use at Lincoln's Inn. In brief, the instructor's "case-book" had not changed
in the dozen years since its preparation: Statham's revision was still the
Lincoln's Inn teaching manual. Its general excellence, plus the political dis-
turbances as the Yorkist dynasty drew to a close, had perhaps forestalled a
newer edition.

30 Winfield, Chief Sources of English Legal History 217, n. 1, quotes 1 Klingersmith xviii as to the possibility that its editor died before the Abridgment
went to press.

31 See note 9 supra. (There is also a good copy of Statham's Abridgment
in that Library,—which circumstance naturally has little if any significance
here.)

32 Both on the title page and in the preface of Richard Bellewe's Les Ans
du roy Richard le SECOND, published in 1585, there is mention of the work as
Statham's Abridgment. Not only did Bellewe use this Abridgment in collect-
ting together his late fourteenth-century cases, but he contrived an easy
method of cross-reference (Winfield, Chief Sources of English Legal
History 235) for the parallel use of Statham and his own collection. Bellewe
the earliest reference in a printed book to that Abridgment.\textsuperscript{33} One might reason, without too much guess-work, that Bellewe as a member of Lincoln's Inn received his information from older lawyers at the bar, who were themselves familiar with the actual facts of its publication. Again, Sir Edward Coke (who was called to the bar in 1578) described the work in this language:

"Stathom's abridgment first published in the reign of H. 6 by Stathom a learned lawyer of that time.\textsuperscript{34}"

These authorities represented the best professional opinion of the century that followed Nicholas de Statham. One feels justified in placing considerable credence in their belief.

Naturally, it may be urged that these contentions amount merely to assertions that Nicholas might have compiled the Abridgment and that later lawyers thought someone named Statham had done it. Even so, — just as one hopes the earlier Year Books of Edward I will someday be found, — there exists a notion among legal historians that the mystery of Statham can be cleared up sooner or later. Meantime, the profession will continue to owe an incalculable debt to that fifteenth-century scholar, whatever his name, who guided lawyers to their first scientific use of judicial

\textsuperscript{33} There has been little observation by writers as to the Lincoln's Inn background of Bellewe, in their discussion of his reference to "Statham". Whether Bellewe got his information from the "ancients" of the Inn,—who were perhaps almost eye-witnesses to the accident of publication,—or whether he reported merely the best tradition of his Inn, in either event considerable weight should be given his description.

\textsuperscript{34} Coke, Reports, Part X, fol. xxviii. So, too, in Vol. II, proemium, Coke adds that STATHAM'S ABRIDGMENT is not to be despised.
materials. But, with or without this further evidence, Nicholas de Statham must temporarily receive credit for its authorship.\footnote{In the introduction to Klingelsmith, Statham's Abridgment (xviii-xix), the editor has expressed the modern wonder that the publication of so important a work should have occurred without explanation as to the source of the manuscript or informative note as to the circumstances of its printing. "Persons of responsibility and wealth must have taken the matter in hand." That the print job should have gone to one in Rouen,—that such a beautiful specimen of printer's art in type and make-up should have been produced when late fifteenth-century English law-books were inferior in both respects,—or that the work should indeed have been printed at all: these are questions that now seem insoluble. One can only speculate as to why the promoters should have paid for this expensive Abridgment and yet claim no credit for their achievement.

Certainly no assistance in unravelling the mystery can come from the book itself. Absence of title-page as well as preface makes the printed text barren of clues: and the ordinary volume bears no contemporary long-hand designation that might help out. For example, a Library of Congress copy has been annotated in a sixteenth-century hand with folio numbers opposite the respective headings of the Table, yet there is no indication as to the identity of annotator nor as to the subsequent chain of title. The pencilled first-page notation, "‘Rouen, 1470’", is unfortunately twentieth-century.

Cowley, op. cit. supra n. 2, at xl-xlii, has proposed a new theory as to Pynson's connection with the book. Granted Mr. Turner's hypothesis regarding Sir William Callow's possession of a copy of the Lincoln's Inn abridgment compiled under Statham's direction, this new suggestion seeks to explain how it got into the printer's hands. In 1483-1484, Richard III's Act against Aliens prudently exempted book printers and book merchants, and fostered their immigration into England (another example of Richard's wise legislation during that brief reign). According to Cowley, Pynson may have come over to England a year or so thereafter, on the look-out for profitable printing contracts. It is conceivable thus that shortly following Callow's death in 1487, he became interested in law-book printing and the "Lincolnesin" manuscript was acquired from Callow's surviving associates in Middle Temple. Journeying then to Rouen in 1488, the material was set up and the volume issued. On his return to England at the start of the next decade, Pynson established his own press in London and went into business actively as a law-book publisher.

In support of this theory, Mr. Cowley has the fact of Pynson's 1506 Chancery suit against three gentlemen of the Inner Temple growing out of his contract to publish 409 copies of an abridgment of statutes,—among these respondents being Christopher Saint Germain. From that circumstance it is possible to reason back into the earlier decade. Clearly Pynson had Middle Temple contacts at the turn of the century: a scant dozen years before, that Inn possessed what was by hypothesis the Statham manuscript. May one conjecture that Saint Germain or some similar Middle Temple scholar entrusted the printer with Callow's Briggemente ("thothir")? And if one may, is the further hazard of a 1488 date for the printing too precipitous? The only surmise unspoken would then be the speculative responsibility of the author of Doctor and Student for arranging the publication of Statham's Abridgment. Into such a realm of philosophical fancy the present note cannot venture.