

the territories. That he did not feel the moral force of Abolition, or appreciate the revolution slowly taking place in public opinion in the North, is true; few of his great contemporaries did; but this, after all is said and done, is only to point out that he stood on the wrong side of a great issue, not that he "straddled" the question. Nor does it appear that he ever abandoned, or even abated, his belief in protection, or that he regarded the tariff of 1833 in any other light than that of a temporary reduction of duties made necessary to save the Union. The precise measure of protection to be accorded to this or that industry was, indeed, a matter of compromise, but the principle of protection was not surrendered.

Mr. Clay's work has been carefully done, and was worth doing. When Clay's letters and speeches shall have been satisfactorily edited, this book should prove a valuable guide to the writer who attempts a definitive biography of Henry Clay.

WILLIAM MACDONALD.

*A Documentary History of American Industrial Society.* Edited by JOHN R. COMMONS, ULRICH B. PHILLIPS, EUGENE A. GILMORE, HELEN L. SUMNER, and JOHN B. ANDREWS. Prepared under the auspices of the American Bureau of Industrial Research, with the co-operation of the Carnegie Institution of Washington. With preface by RICHARD T. ELY and introduction by JOHN B. CLARK. Volumes III. and IV. *Labor Conspiracy Cases, 1806-1842.* (Cleveland, Ohio: The Arthur H. Clark Company. 1910. Pp. 385; 341.)

In 1806, the measures taken by certain journeymen cordwainers of Philadelphia to compel their employers to pay them higher wages, and to force certain of their fellow-workmen to become members of their organization, caused them to be indicted in the mayor's court for conspiracy; and after a long and ably conducted trial they were duly convicted and fined. Similar prosecutions were subsequently (1806-1840) instituted, usually with the same results, against the cordwainers' and other workmen's associations in Baltimore and several other cities. So great was the interest excited by these Labor Conspiracy Cases that elaborate pamphlet reports, containing in many instances full stenographic records of the testimony of witnesses and the arguments of counsel, were published and widely distributed. Volumes III. and IV. of the *Documentary History* reprint such of these pamphlets as are still extant, together with contemporary newspaper accounts of cases not otherwise reported. They give, besides, references to others of these decisions that appear in volumes of published court reports. Thus they render practically accessible for the first time a great deal of very interesting and valuable material bearing upon labor conditions in the early years of the United States. Volume III. is further en-

riched by an elaborate historical introduction by Professor Commons.

The Labor Conspiracy Cases present spirited pictures of the tactics of industrial warfare employed by the militant labor-unions of the period. They also evidence the novelty of the peculiar measures resorted to, as well as the instinctive alarm aroused by them in the different communities affected.

These decisions, however, have exercised but little permanent influence upon labor law in the United States. They resulted from attempts to fit the harsh doctrines of the old English common law to an environment utterly different from that in which these doctrines had their origin. Fortified by the decisions in *Rex v. Wise* (The Journey-men Tailors of Cambridge) and *Rex v. Sterling et al.* (The Tub-women v. the Brewers of London), the judges who sat in these cases instructed the juries that the combinations charged were criminal conspiracies by reason of the harm done to trade and commerce by strikes and the increased wages thereby secured, and of the ruin brought upon non-union men by the loss of their employment.

Neither of the principles so laid down has prevailed. In *Commonwealth v. Hunt*, 4 Metcalf III (1842), the Supreme Judicial Court of Massachusetts held that a combination to strike for better wages is not a conspiracy, and this doctrine has never been questioned since. Later decisions also, while still declaring illegal a combination to force a man to join the union by depriving him of his employment by threats to strike against him, have modified the reasoning by which this result was reached. In the Labor Conspiracy Cases the courts looked only at the damage thereby done to the "scab", and held the combination illegal upon the broad ground that it was a combination to "impoverish" him. The later decisions have introduced the qualifying conception that the concerted infliction of intentional damage of this character is not unlawful if the members of the combination can show sufficient justification, in the way of substantial advancement of their legitimate material interests likely to result to themselves, always provided their acts are not unlawful *per se*. And while the courts of to-day will not permit a union to procure the discharge of a non-union man for the sole purpose of compelling him to become a member, it is because they do not regard the desire to have him join the union as sufficient justification for the loss thus directly and intentionally inflicted upon him.

J. WALLACE BRYAN.

*Fifty Years in Camp and Field: Diary of Ethan Allen Hitchcock, Major-General, U. S. A.* Edited by W. A. CROFFUT, Ph.D. (New York and London: G. P. Putnam's Sons. 1909. Pp. xv, 514.)

WE are adding quite rapidly to our stock of valuable biographical works relating to recent history. Few of them are more absorbing than that which is based on the voluminous diaries kept by General Ethan