LincolnLore

Bulletin of The Lincoln National Life Foundation . . . Dr. R. Gerald McMurtry, Editor
Published each month by The Lincoln National Life Insurance Company, Fort Wayne, Indiana

Number 1516 FORT WAYNE, INDIANA June, 1964

THE MANNY REAPER

Some Background Information on the Case of McCormick *v* Manny, 1855

In early July (7th) of 1855 Abraham Lincoln went to Rockford, Illinois, to make a detailed study of the mechanics of a reaper manufactured by Manny & Company. This trip was made during the period of time Lincoln was attending the newly created United States Circuit Court for the Northern District of Illinois which was meeting for the first time in Chicago. The reason for the trip was that Lincoln had received a $400 retainer fee, sometime during the month of June, 1855, to represent the defense in the patent case of McCormick *v* Manny & Company. The suit was filed by the McCormick interests in November, 1854, in the Circuit Court of the United States for the district of Illinois.

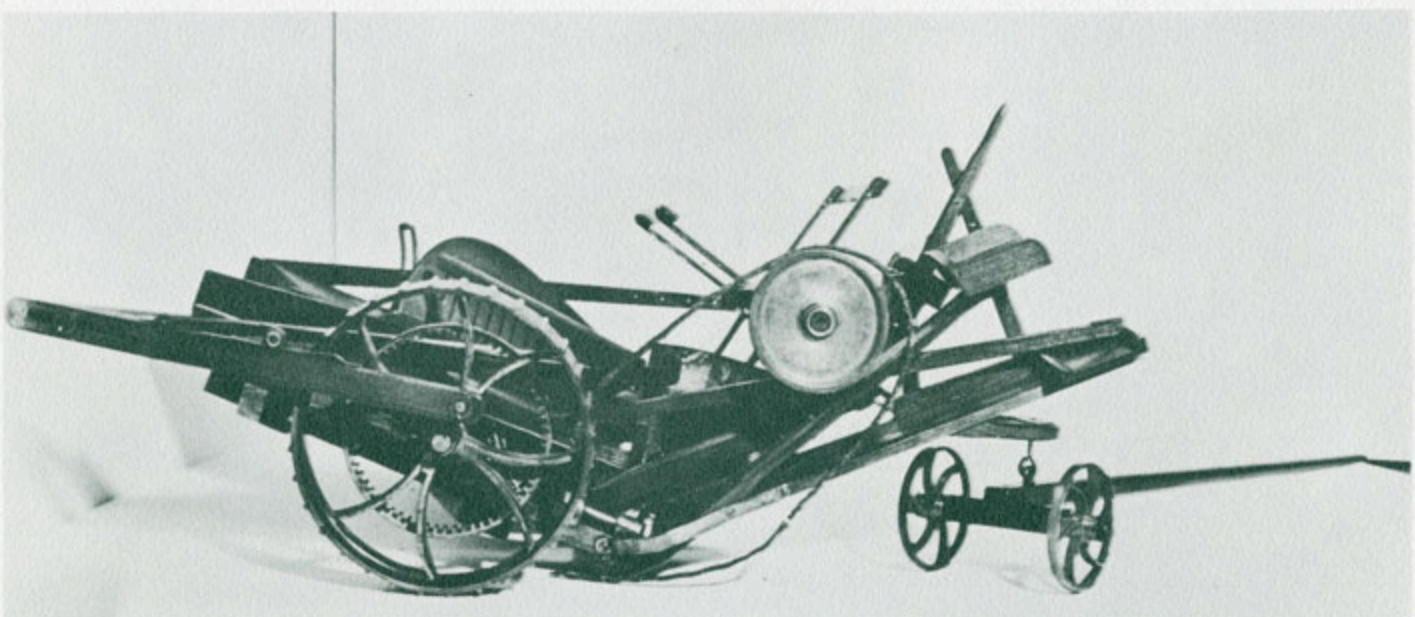
It was on June 21, 1834 that Cyrus H. McCormick, then of Rockbridge County, Virginia, was granted a patent on the first reaper. The original was a crude machine and many improvements were made in its operation in subsequent years by the inventor and other mechanics, including John H. Manny, one of Rockford's pioneer inventors. McCormick prospered, and by 1851 his factory in Chicago was the largest in the world manufacturing harvesting machinery.

McCormick's suit against Manny and his associates was not based on the original patent of 1834 but on improvement patents taken out in 1845 and 1853.

Manny, who was born in Amsterdam, New York, on November 28, 1825, had a mechanical turn of mind and at an early age made invention a study. About the year 1837, Manny accompanied his father to Illinois and settled in Stephenson County. In 1846, on coming of age, he recognized the need of a reaper (McCormick's machine was comparatively unknown in Stephenson County) and began work on one when the heading machine, which his father had purchased, failed to do the work designed for it.

To improve the heading machine it became necessary to build an almost completely new machine before it would do satisfactory work. The Mannys patented their improvements and started building heading machines for sale. The father and son lost almost everything they had invested in the enterprise, because their invention was so expensive to manufacture that it was almost beyond the means of their neighbors to purchase.

Undaunted, Manny began experimenting with a machine for cutting grain and grass. When his triumph was seemingly complete, he enlisted the financial aid of friends and built, in 1847, about fifty machines. However, there was a defect in the sickles, which had been procured from a manufacturer, and this second venture proved to be a disastrous failure. However, a few years



Original Model from Philip D. Sang Collection

A manufacturer's model of a Manny reaper made of mahogany wood and brass in the private collection of Philip D. Sang of Chicago, Illinois. This model likely embodies many of the features which were a topic of technical discussion in the McCormick Reaper Case.

later, with the improvement of the sickles, he was able to build in 1852 eighty-four new machines.

In July of 1852 in a great reaper exhibition at Geneva, New York, the Manny reaper came in competition with eleven other machines, and the excellence of the Manny product was established. In the spring of 1853 the Manny manufacturing plant was moved to Rockford, Illinois, and for the harvest of that year four hundred machines were produced.

The popularity of the Manny reaper continued to grow, and with the demand so great and the business so extensive, it was desirable to secure interested assistance in its management. So in 1854 Messrs. Wait and Sylvester Talcott became associated with the inventor in the factory's management as partners, under the name of J. H. Manny & Company; and that same year the company manufactured and sold over one thousand machines.

With the business growing, Jesse Blinn and Ralph Emerson, Jr. joined the firm in 1855. The name of the firm was changed to Manny & Company. Manny finally gave up the business management of the company to his partners while he continued to improve the reaper. Eventually, thirty-three patents were issued to him . . . embracing thirty-three distinct claims.

With competition so fierce between McCormick and Manny, the original manufacturer brought suit in the Federal Court at Chicago, to enjoin John H. Manny and his associates from using what was called the "divider" or "shoe" which preceded the sickle, and parted the standing grain. McCormick also claimed infringement of his patent in the setting of the reel post back of the cutter to improve the action of the reel. Furthermore, McCormick claimed as a patent infringement the position of the raker arrangement in combination with the reel to enable the rake to take the grain from the platform and deliver it on the ground at the side of the machine. In addition to the above, there were other technical allegations.

Manny & Company's attorney was Peter H. Watson of Washington, D. C.. who as a patent lawyer solicited the Manny patents. Watson was given complete charge of the defendant's case. While he did not plan to take any part in the trial, he engaged George Harding, a Philadelphia attorney, to argue the mechanics of the case. Meanwhile, the McCormick Company engaged Edward M. Dickerson of New York City, and the well-known Baltimore lawyer, Reverdy Johnson, to represent the plaintiff. To offset this advantage, Watson and Harding engaged the services of Edwin M. Stanton of Pittsburgh.

Thinking that the trial would be held before Judge Thomas Drummond of the United States Circuit Court at Chicago, the Manny interests felt that an Illinois lawyer "would be of real assistance in arguing such a case." The attorneys for the defendant first selected as their "local associate" Isaac N. Arnold of Chicago, but he held some adverse retainer. It was then that they selected Abraham Lincoln of Springfield, Illinois. When Watson contacted Lincoln at his home, he left him "under the impression that he was to make an argument and (was) expected to prepare for it." The opportunities which this case offered pleased Lincoln who had an unusual aptitude for mechanics. Then, too, the case offered contacts with big business interests and association with outstanding attorneys. Certainly, the case would also yield Lincoln a handsome fee.

Apparently, Watson was not too impressed with Lincoln, but he was engaged at the insistence of Ralph Emerson, one of Manny's partners at Rockford. After the initial contact with Watson, the Springfield lawyer received no help, whatsoever, in his preparations for the case.

From Springfield, Illinois, on July 23, 1855 Lincoln wrote to Watson at Washington, D. C.:

> "At our interview here in June, I understood you to say you would send me copies of the Bill and Answer in the case of McCormick *vs* Manny and Co. and also of depositions, as fast as they could be taken and printed. I have had nothing from you since. However, I attended the U. S. Court at Chicago, and while there, got copies of the Bill and Answer. I write this particularly to urge you to forward on to me the additional evidence as fast as you can. During August, and the remainder of this month, I can devote some time to the case, and, of course, I want all the material that can be had.
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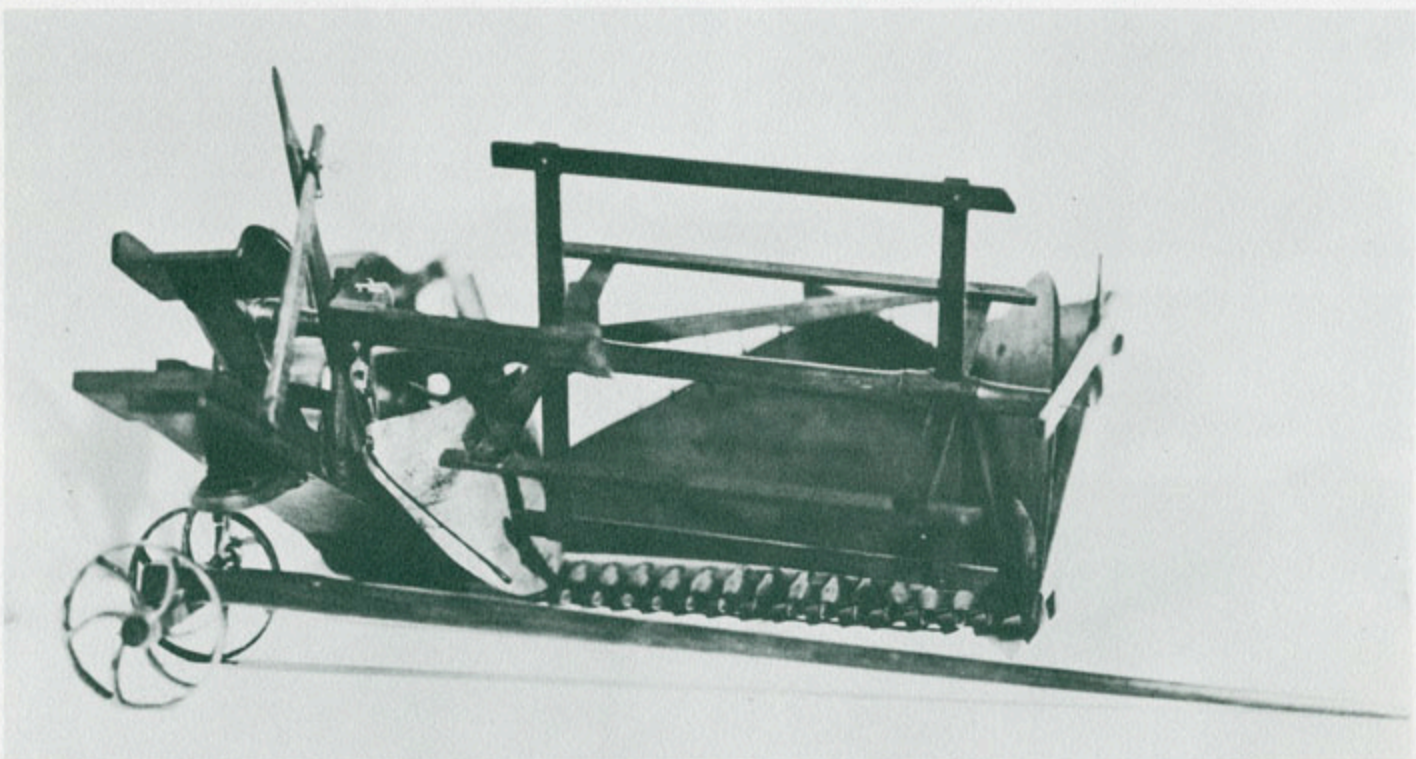
> "During my stay at Chicago, I went out to Rockford, and spent half a day, examining and studying Manny's machine.
>
> "I think you ought to be sworn before the evidence



Original Model from Philip D. Sang Collection

Another view of the manufacturer's model of the Manny reaper in the private collection of Philip D. Sang of Chicago, Illinois.

From the collection of the Tinker Swiss Cottage, Inc., Rockford, Illinois

Photograph of an oil painting of John H. Manny (1825-1856)

closes: of this however, I leave you and the others to judge."

Not receiving any reply from Watson, Lincoln wrote the Manny firm at Rockford on September 1, 1855:

"Since I left Chicago about the 18th of July, I have heard nothing concerning the Reaper suit. I addressed a letter to Mr. Watson, at Washington, requesting him to forward me the evidence, from time to time, as it should be taken, but I have received no answer from him.

"Is it still the understanding that the case is to be heard at Cincinnati on the 20th inst?

"Please write me on the receipt of this."

The chief reason for the failure to keep Lincoln abreast of the situation was that the case was to be tried in Cincinnati instead of Chicago. This change in the trial city, by agreement of both parties, was made for the convenience of Judge McLean of the National Supreme Court. Then, too, it was thought advisable to "keep Lincoln in line" rather than risk his possible hostility. The strategy was to side-track Lincoln once he arrived in Cincinnati, because the one object they had in employing him in the first place was that a local lawyer in Chicago would understand the judge and gain his confidence.

Nevertheless, Lincoln was prepared to argue the case — prepared, perhaps, with greater thoroughness than ever before in his life. Yet, during the course of the trial, which began on September 20 and was concluded on October 2, 1855, Lincoln sensed that he was not equipped to deal with the intricacies of patent law, which in this particular case required a knowledge of all foreign and domestic reaper patents. Lincoln simply did not have the training to enable him to meet such men as took part in the great reaper case — a test case in which rival manufacturers of the East joined the Rockford manufacturers in their fight to break the McCormick monopoly. While the eastern manufacturers did not appear of record in the litigation, enough money was raised "to do whatever (the defendants) thought would conduce to success." Needless to say, the outcome of the chancery suit was also important to western farmers.

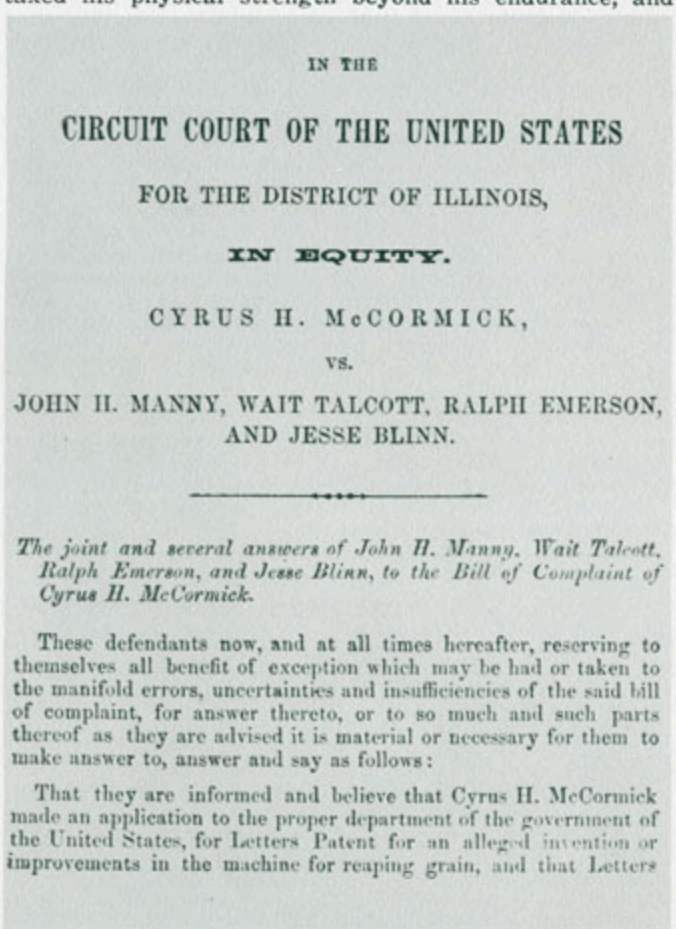
When Lincoln went to Cincinnati to represent the defendants, he carried with him "a roll of manuscript" which he intended to present to the court. The story of the McCormick Reaper Case has been told and retold many times and will not again be repeated in this issue of *Lincoln Lore*. The reader will, of course, remember how Lincoln was humiliated and ignored by the defendants both professionally and socially during his entire sojourn in Cincinnati. Yet in spite of this rebuff, Lincoln sent through Watson the roll of manuscript which he said contained the argument he had intended to deliver, for any use Harding might care to make of it. Harding, thinking that Lincoln's argument would be only "trash," did not even open it. Thereupon, Lincoln requested its return, intimating to Watson that he wished to destroy it. Lincoln received it unopened and no trace of it has been discovered to this day.

The majority opinion of the Court (handed down by Mr. Justice McLean) was delivered at Washington on the 16th of January, 1856. The lengthy technical decision (about 12 printed pages in length) declared in the last two paragraphs "that there is no infringement of the plaintiff's patent, by the defendant, as charged in the bill, it is announced with the greater satisfaction, as it in no respect impairs the right of the plaintiff. He is left in full possession of his invention, which has so justly secured to him, at home and in foreign countries, a renown honorable to him and to his country — a renown which can never fade from the memory, so long as the harvest home shall be gathered.

"The bill is dismissed at the costs of the complainant."

Lincoln probably left Cincinnati on September 26, 1855 without any thought of receiving a fee beyond the $400 retainer. Lincoln told Emerson that this was the largest retainer fee he had ever received. Upon his return to Springfield, he received from Watson a check believed to be for $600. Lincoln returned the check stating that he was entitled to no fee beyond the retainer. Thereupon, Watson returned the check to Lincoln insisting that he was entitled to the fee. Lincoln kept the fee.

Exactly two weeks after his victory in court, Manny died in Rockford. Early in the autumn of 1855 it was evident that he suffered from an incurable disease then called "consumption." As an untiring worker, he had taxed his physical strength beyond his endurance, and



IN THE

CIRCUIT COURT OF THE UNITED STATES

FOR THE DISTRICT OF ILLINOIS,

IN EQUITY.

CYRUS H. McCORMICK,

vs.

JOHN H. MANNY, WAIT TALCOTT, RALPH EMERSON, AND JESSE BLINN.

The joint and several answers of John H. Manny, Wait Talcott, Ralph Emerson, and Jesse Blinn, to the Bill of Complaint of Cyrus H. McCormick.

These defendants now, and at all times hereafter, reserving to themselves all benefit of exception which may be had or taken to the manifold errors, uncertainties and insufficiencies of the said bill of complaint, for answer thereto, or to so much and such parts thereof as they are advised it is material or necessary for them to make answer to, answer and say as follows:

That they are informed and believe that Cyrus H. McCormick made an application to the proper department of the government of the United States, for Letters Patent for an alleged invention or improvements in the machine for reaping grain, and that Letters

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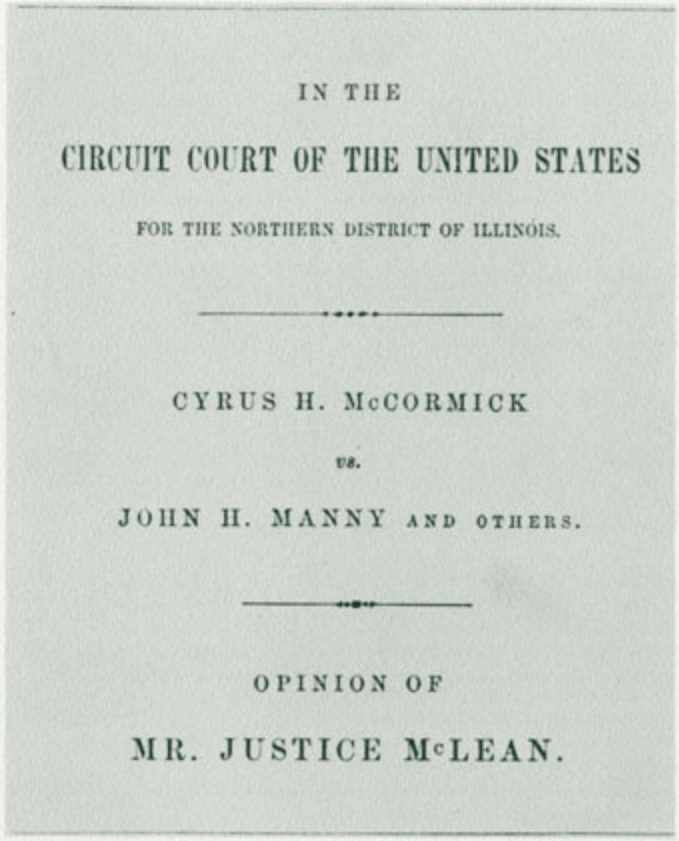
Caption title page of a 25 page pamphlet containing the joint and several answers of the partners in the Manny Company to the Bill of Complaint of Cyrus H. McCormick.



IN THE

CIRCUIT COURT OF THE UNITED STATES

FOR THE NORTHERN DISTRICT OF ILLINOIS.

CYRUS H. McCORMICK

vs.

JOHN H. MANNY AND OTHERS.

OPINION OF

MR. JUSTICE McLEAN.

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Title page of a 19 page pamphlet, reprinted from the American Law Register, March, 1856, containing the opinion of Mr. Justice McLean in the McCormick Reaper Case.

it is believed that he contracted the disease as early as 1852. He was scarcely thirty years of age, at the time of his death on January 31, 1856.

After Manny's death, and before the case went to the Supreme Court, the name of the business firm was changed to Emerson, Talcott and Company as successors to J. H. Manny and Company. Later, the firm name was changed to Emerson Manufacturing Company, and again in later years to Emerson-Brotingham Company.

McCormick, as before stated, appealed the case to the Supreme Court of the United States. The case was argued before that high court on February 16, 1858 and April 22, 1858. Justice Grier's opinion sustained the lower court and found in favor of the Manny interests on all points. Again McCormick was instructed to pay court costs. This decision firmly established one of Rockford's largest and most fundamental industries — the manufacture of agricultural implements and machinery. The industrial history of Rockford would have been considerably different if McCormick had won his case.

The agricultural interests — those most affected by the outcome of the case — were largely in sympathy with the defendants. This sentiment was reflected by the *Scientific American's* report immediately following the Supreme Court decision:

> "Thus has terminated a suit which, if McCormick had been successful, would have subjected the reaping machine to his own private monopoly, and made him lord of the harvest. It is a matter of great individual hardship to Manny and Company, that they should have been compelled, in order to shield them from a grasping monopoly, to maintain, single handed, a defense — expensive beyond example — in the most important patent suit perhaps ever tried in this country, while the benefits of their success will ensue chiefly to other manufacturers whom the suit has not cost a single dollar."

Undaunted by the adverse Supreme Court decision, William S. McCormick in the name of C. H. McCormick issued from Chicago on May 20, 1858 the following statement to agents in the field:

"I address you this circular to say, with reference to the result of my late suit against the manufacturers of the Manny Machine, that we stand in the business just as heretofore — judges standing five to three.

"My original patent is out — expired by its limitation some years ago. My first patent was obtained in January, 1834, hence others may sell machines manufactured after my original patent, except so far as my patented improvements may apply.

"I sued the Manny Company for infringements and failing to recover, leaves me just in the same position I was in before the suit, and though others may, as heretofore, study to imitate my machines according to my original patent, and as nearly copy my patented improvements as possible, yet after all they cannot build and sell my identical machine. They are still obliged to *haul the raker on the platform,* where he must submit to having the dust thrown in his eyes by the operation of the reel, and to be *jolted over the clods by the little platform wheel, necessarily racking their machine to pieces.* This accounts for the great durability of my machine as compared with others. In my machine the raker is placed on the main frame where there is strength to stand the weight, which really gives additional power to the machine.

"My original patent really never afforded me any protection, for the reason that it has expired before the successful introduction of my machine. While this is true, however, such has been the superiority of the machine, that it has always kept the front rank, — my inability to supply the demand, enabling others to sell their machines, after my supply had been exhausted.

"I may also add that from my earliest commencement in the business, I have afforded my machines to the farmers at so low a rate, that regardless as competitors have been of my patents, they have not been able to afford even their inferior machines at a lower price. On the contrary, while the profits which I may have realized, has resulted from the extent of my business and the perfection of machinery, and other appliances brought to bear, along with laborious and continued efforts to make the machines so as to meet the wants of the farmers, while this is true, it may safely be said that the lead which I have taken and the large number manufactured by me for the market from their earliest introduction, when the farmers first began to lay aside the reaping hook and cradle, has been the means of securing machines to them at much lower rates than they must otherwise have paid.

"I will take occasion to say here that I have for sale several thousand sickles, made to suit my machines of past years, and of the very best materials, and that it would be a good investment for farmers to purchase and have at hand a pair of sickles. The loss of an hour in the harvest field would more than pay for a pair of sickles. Could you not by a little attention get large orders for them?"

There is a sequel to this miscellaneous collection of information:

Lincoln was inaugurated President of the United States on March 4, 1861.

Edwin M. Stanton became Lincoln's Secretary of War on January 15, 1862.

George Harding was offered by President Lincoln the position of Commissioner of Patents which he declined.

Peter H. Watson became president of the Erie Railroad.

Reverdy Johnson became a leader of the American bar and served a term as United States Senator from Maryland during Lincoln's administration. (At the time of Lincoln's assassination Johnson was chosen from the Senate to act as one of the President's honorary pallbearers).

Edward N. Dickerson continued to serve the McCormick Company in other legal battles, as he did in the case against Manny.

Cyrus H. McCormick died on May 13, 1884 and Judge Thomas Drummond served as an honorary pallbearer at his funeral. While McCormick and Lincoln were contemporaries (McCormick was three days younger than Lincoln) there is no evidence that they ever met. Perhaps because McCormick was a life-long Democrat and an anti-Lincoln man, there was no occasion for them to meet. Nevertheless, McCormick was one of the outstanding men of the country during the Civil War and post-war years.