order is divisible as to each machine and attachment ordered . . . It is further understood and agreed that any . . . omission on the part of the company does not confer any right to damages for delay or loss of work or earnings or to other damages . . . In no event shall the company be liable otherwise than for the return of cash and notes actually received by it . . .

"The company assumes no liability for non-shipment, delay in shipment or transportation. Acceptance by purchaser is a full waiver of any claim for delays in filling this order arising from any cause . . . The property in the above machinery shall not pass to the purchaser until the purchase money . . . and the notes given therefor . . . shall have been fully paid . . ."

The evidence further shews that the separator was delivered promptly to the defendant but the side stacker was not—that the defendant came to Toronto about this and was told that it would be sent for from Wisconsin and shipped in about 5 days, but it did not come. Three months after, i.e., in December, 1906, correspondence began about this stacker and about paying the notes, but the stacker did not make its appearance for that season. In August, 1907, a side stacker did come along to the defendant and the defendant tried to put it on but could not succeed; it was built for left hand instead of right hand, he says, finally a representative of the plaintiffs came up, found the side stacker no good and told the defendant to ship it back. Further correspondence took place, the plaintiffs offering to take back the defective machinery if it was not injured and credit the defendant with its value and this the defendant seems to have agreed to (February 25th, 1908)—the carrier was returned and the defendant credited with its value. No claim was made by the defendant on account of this machinery during the correspondence, except for 92 cents freight and the interest on the note with $3 for grain boxes. Even his solicitors (October, 1908), complain only of the way the value of the carrier was applied, saying that this should have been all applied on the first note and at length. October 31st, 1908, this claim was acceded to. The first note was paid and a promise made to pay the remainder. This was not done and action was brought for the last note, then for the first time the claim is made by the defendant which I have already set out. This account will enable us to understand the findings of the jury which are as follows:—

1. Q. Did defendant make note sued on? A. Yes.

2. Q. Has it or any part thereof been paid? A. No, unless endorsement on back of note of $7.50 means anything.