counterclaim, but he should not have reserved leave to litigate it further.

Upon the third question: the first item of the plaintiffs' claim, $179.64, was admitted. The other items were admittedly made up of: (1) $225 for each of the two new engines; (2) the installing of the same; and (3) certain other items unconnected with the engines and their installation. The first two classes of items must be disallowed, as admittedly they were replaced by the fixed sum of $500; but at the same time the third credit item on the plaintiffs' statement, "allowance on installing, $267.17," also disappeared. There was no dispute that all the articles charged for were actually supplied; the defence was that they were (mostly) so supplied in the endeavour on the part of the plaintiffs to implement their contract. The onus of proving this was on the defendants; and they admitted that some of the items were properly charged. There was no evidence to establish the contention of the defendants. The plaintiffs' counsel pointed out 25 items, amounting in all to $111.40, wholly unconnected with the new engines and their installation; there was no evidence the other way, and that sum should be allowed to the plaintiffs, making in all $509.97. But the plaintiffs claimed only $490.40, and they should have judgment for that sum, with interest from the date of the writ of summons, and with costs here and below.

Upon question No. 1 the defendants must accept the onus of proving breach and consequential damages. The sale was not by description, but of two specific trucks well known to both parties. There was no pretence in the evidence that the defendants gave the plaintiffs to understand that they were relying upon the plaintiffs' skill or judgment. There was thus no implied contract by the plaintiffs except as to title. Then, as to the express contract of the plaintiffs, it must be borne in mind that the trucks were second-hand; the contract to turn them out in A1 shape mechanically did not require the plaintiffs to turn them out as good as new, but only mechanically in first-class shape for second-hand trucks. There was nothing in the evidence to justify a finding of breach of this contract by the plaintiffs and damage resulting therefrom.

The appeal of the plaintiffs should be allowed, and judgment should be entered in their favour for $490.40 and interest from the teste of the writ, with costs here and below, and dismissing the cross-appeal of the defendants, thereby dismissing both branches of the counterclaim, with costs here and below.

This should not prevent the defendants, if so advised, setting up in any other action a breach by the plaintiffs of an implied contract to install the Russell engines skilfully—although it would