man's statement was not correct. As I said, there had been no trial. This man in charge said, in substance: "The builders of this car have discontinued the use of the 60 a 4 battery; they think they get better results from this battery; this is a better battery"; whereas the only reason for the change was that it served the defendant's purpose to make a sale of a battery which he had carried in stock for a very long time. As to the time for rejection see Adam v. Richards, 2 H. Bl. 573; Heilbutt v. Hickson, L.R. 7 C.P. 438.

Aside, then, from the relative merits of the two batteries and the motors in conjunction with them, and without reference to whether the car is a good workable and serviceable car or not, I am of the opinion that upon the ground of non-performance alone the plaintiff is entitled to the judgment above set out: Bowes v. Shand (1877), 2 App. Cas. 455, per Lord O'Hagan, at pp. 479, 480, and Lord Blackburn, at pp. 480, 481; Allan v. Lake, 18 Q.B.D. 560.

But the battery is only one point. Under the specific terms of the contract, the plaintiff had not only the right to receive a car duplicating the Hastings car in appearance, equipment, and method of construction, but he had the right to have delivered to him a car equally as good in all respects—as efficient and as satisfactory in operation—as the Hastings car. He was to have a car "like the car . . . sold to Dr. Hastings."

He did not get such a car. A car that will not climb a hill, that must be re-charged every 25 or 30 miles, and that gives constant trouble, is not like Dr. Hastings's car. I have not overlooked the circumstance that towards the end of the trial, the defendant made a half-hearted suggestion that the Hastings car gave trouble too; but there was nothing specific, and I give no weight to this casual interjection, seeing that this was not at all the line of defence throughout the trial, that Dr. Hastings was not even asked as to the working of his car, and that upon the argument it was not even suggested that the Hastings car was not efficient and satisfactory in every respect.

Again, the vendor, as I said, is a dealer in motor cars. This transaction was in a sense a sale by sample—the Hastings car. It is not enough, even if the defendant had been able to do this, to shew that the car furnished was a copy or duplicate of the car sold to Hastings. The defendant was bound to supply a car reasonably fit for the purposes for which it was intended: Drummond v. VanIngen (1887), 12 App. Cas. 284; Mody v. Gregson, L.R. 4 Ex. 49; Randall v. Newson, 2 Q.B.D. 102.

What was the cause of this car not running properly does not clearly appear. The defendant, who was, I think, more com-