This chapter examines the doctrine of anticipatory breach, which occurs where, before the time comes for A to perform his part of the contract, A declares that he is not going to do so. This repudiation of the contractual obligation is itself a breach of contract. The innocent party may choose to either accept or reject an anticipatory breach. If he accepts, the contract is terminated and the innocent party can sue for damages immediately. If the anticipatory breach is rejected, then the contract remains on foot. If the innocent party elects not to accept the breach and to keep the contract alive, then he may proceed to perform his side of the bargain and sue for the contract price. However, it appears that this action for the agreed sum, or action in debt, may not succeed if the innocent party had no ‘legitimate interest’ in taking such steps.
26. Anticipatory breach of contract