when Conolly obtained a verdict for $200. On appeal, the verdict was set aside and the action dismissed. Chief Justice Hagarty held that there was no surrender of the term either under the Statute of Frauds or by operation of law, and that while the term continued the landlord could not make any claim except for rent from month to month: the defendant's expressly renouncing and repudiating the tenancy could not in itself be a surrender and the term remains. "I cannot see," said the learned Chief Justice, "that any sound argument deducible from such cases as *Hochster* v. *De la Tour* can govern the case before us." Burton, J.A., concurred. Osler, J.A., also thought that there was no surrender in law or otherwise, and went on to say: "He (Coon) remained tenant, and though not bound to remain in actual possession, might have resumed possession whenever he chose. It would be a most extraordinary extension of the doctrine of *Hochster* v. *De la Tour* and cognate cases, were it to be held that, because the tenant chose to say that he repudiated the lease and would pay no more rent, the landlord might forthwith bring his action, and recover damages measured by the amount of the future gales of rent, treating what had occurred as an immediate breach of the entire contract between his tenant and himself. It might as well be said that the announcement by the maker of a promissory note, or of a covenant to pay a sum of money at a future time, that he would never pay it, or would refuse to pay it when due, would give rise to an immediate cause of action . . . The case of *Green* v. *McVicker*, 8 Bissell 13, comes nearest to the present case in its circumstances. It seems well decided, but the vital distinction is that there the agreement was to accept a lease of certain premises in the future for a term of two weeks. The intended lessee never entered, and before the time arrived for taking the premises gave notice to the intending lessor that he would not take or occupy them according to the agreement. The agreement was strictly executory on both sides, and a claim by the intended lessor for damages before the time when the lease was commenced was entirely within the principle of the