

ment by stopping payment of the cheque, it does not follow from that decision that the drawer of a cheque by stopping its payment can relieve himself from all liability thereon as against all persons.

The contention of the plaintiff in *Elliott v. Crutchley* was that he was entitled to recover on the cheque, because, if the payment had been made in cash instead of by cheque, he would have been entitled, according to the decision of the Divisional Court in *Blakely v. Muller* (1903) 88 L.T. 90, to have retained the money, and therefore he contended he was entitled to recover on the cheque, though he could not succeed on the contract in respect of which the cheque was given. The answer to that, however, would seem to be that the cheque was not a payment, but a contract to pay, that the stoppage of its payment by the drawers enabled them to set up that the consideration had failed by reason of the contract in respect of which it was given having become abortive. It is, however, somewhat difficult to reconcile that position with *Blakely v. Muller* which decides that the fact that the further performance of a contract becomes impossible from no default of either contracting party, does not render the contract void ab initio, but both parties are excused from further performance so that neither can recover from the other in respect of anything done in the partial performance of the contract. Can it be said that there was a total failure of consideration? Perhaps on the other hand it is an instance of a hard case making bad law.

TWO GREAT JUDGES.

The eminent British historian and publicist, Mr. James Bryce, has given us* interesting sketches of the lives of some distinguished men of the last half of the century just closed. His account of the career of Sir George Jessel, Master of the Rolls, and of Lord Chancellor Cairns will be of special interest to our readers.

Of Sir George Jessel who was born in 1824 and died in 1883, he says:—

"Jessel was only one among many instances England has lately seen of men of Jewish origin climbing to the highest distinction. But he was the first instance of a Jew, who, continuing to adhere to the creed of his forefathers, received a very high

*Studies in Contemporary Biography, The MacMillan Co., New York.