construction with which the Courts were familiar—namely, the very liberal and the very strict one, the spirit and the letter. Bentham alluded to the two-fold interpretation on the "double fountain principle," the effect of which was to make the Judge almost the master of every cause that came before him. Appended to the passage was a quotation from Homer, in the Greek, with Pope's translation of it, as follows:—

"Two urns by Jove's high throne have ever stood,
The source of evil one, and one of good;
From thence the cup of mortal life he fills,
Blessings to these, to those distributes ills."

In the present case, he went on to say, one might imagine the Vice-Chancellor seated on his small Olympus, with two urns before him, on one of which was inscribed 'laxness,' and on the other 'literalness,' and dipping his hand into the one and into the other, as he came to deal with different inquiries.

The well-known author, Mr. J. W. Smith, who is now a County Court Judge in England, has also been vexing his soul with the incongruities of judicial decision. He was moved to give vent and voice to his feelings, as he observed the manner in which the judgments of the High Court of Justice are week by week overruled by the Court of Appeal, and the Court of Appeal itself in turn overruled by a higher tribunal. His views were thus stated: "Equally eminent judges have been, and are governed by different systems or theories of judicial decision, leading to opposite results: the one mainly proceeding on technical refinements, the other on principles of natural justice, common sense, and public policy; the one deciding on general rules or principles, the other looking to the exceptive circumstances of each case as much as to general rules or principles. The adoption of the former system by some judges has led to endless uncertainty, frequent litigation, both original and appellate, incalculable expense and vexation, and the grossest injustice and contravention of public policy. And it has been the prolific source of a mass of refined trash and learned rubbish, which strains the brains, occupies the public time, and exhausts the bodily and mental powers of the judges to no purpose but to defeat moral right and sound expediency." What he proposes as the remedy would be of rather equivocal benefit. He suggests that a statute should be passed, providing that, subject to any plain enactment or plain agreement to the contrary, and subject to the established rules of law, where an exception to such rules is not called for by the circumstances, all cases in litigation, other than cases of construction, shall in the discretion and to the best of the judgment of the Judge deciding the same, be decided as far as may be, according to justice, moral right, and public policy.

Mr. Smith's proposed legislation recalls one of the most pungent of Lord Mansfield's sarcasms, as commemorated in the pages of Woolrych. Serjeant Sayer went the circuit for some Judge who was indisposed. Afterwards, he was imprudent enough to move, as counsel, to have a new trial of a cause heard before himself, for a misdirection by the Judge. Lord Mansfield said: "Brother Sayer, there is an Act of Parliament, which in such a matter as was before you, gave you discretion to act as you thought right." "No, my Lord," said the Serjeant, "I had no discretion." "You may be right, Brother," replied Lord Mansfield, "for I am afraid even an Act of Parliament could not give you discretion." As pointed out in some appropriate sentences of the admirable judgment of Mr. Justice Moss in *Re Stratford and Perth*, 38 U.C. Q.B. 157, "the discretion which the Court should exercise, is not one founded upon its