cur, that by "mutual compromises and mutual forbearance" great possibilities are open to us. All we stipulate for is that the compromises and forbearances shall be mutual, and that all rights and privileges shall be equally enjoyed.

W. E. O'BRIEN.

COMMENTS ON CURRENT ENGLISH DECISIONS.

The Law Reports for September comprise 23 Q.B.D., pp.261-372 and 42 Chy.D., pp.1-92.

MALICIOUS PROSECUTION—ISSUE OF WARRANT—JUDICIAL ACT.

In *Lea* v. *Charrington*, 23 Q.B.D., 272, which we noted, *ante* p. 425, when the case was before the Divisional Court, the judgment of the latter Court was affirmed by the Court of Appeal (Lord Esher, M.R., Cotton and Lindley, L.JJ.) who, without deciding whether the case of *Hope* v. *Evered*, 17 Q.B.D., 338, on which the Court below had proceeded, applied, were of opinion that there was on the facts proved at the trial, no evidence to go to the jury of want of reasonable and probable cause.

PRACTICE—DISCOVERY——AFFIDAVIT OF PARTY AS TO DOCUMENTS CONCLUSIVE.

In *Morris* v. *Edwards*, 23 Q.B.D., 287, a point of practice is discussed by the Court of Appeal (Lord Esher, M.R., and Cotton and Lindley, L.JJ.) The action was for recovery of land, and the defendant had filed an affidavit on production of documents in which he stated that he had in his possession a bundle of documents marked with the letter A, which he objected to produce, on the ground that they related solely to his own title, and did not in any way tend to prove or support the plaintiffs' title. The plaintiffs then administered an interrogatory, asking whether such documents did not include a particular document mentioned and relied on in the plaintiffs' statement of claim. This interrogatory the defendant refused to answer, whereupon the plaintiffs' applied for an order to compel the defendant to answer it, and on the application sought to read an affidavit in contradiction of the affidavit of documents. The Divisional Court (Denman and Charles, JJ.) made the order, but it was held by the Court of Appeal that the latter affidavit was inadmissible, and that the plaintiffs were not entitled to an answer to the interrogatory, and the order of the Divisional Court was therefore reversed. Their Lordships in appeal reiterate the rule laid down in *Jones* v. *Monte Video Gas Co.*, 5 Q.B.D., 556, that it is only when it appears from the affidavit of documents itself, or from the documents referred to therein, or from an admission in the pleadings of the party from whom the discovery is sought, that the affidavit is insufficient, that an order for a further affidavit can be properly made. The insufficiency cannot be made out by a contentious affidavit.