

*Benbow v. Low*, 44 L. T. Rep. 119; *Attorney-General v. Gaskill*, 46 L. T. Rep. 180. So also a party may endeavour to impeach or destroy his adversary's case by interrogation (*Grumbrecht v. Parry*, 49 L. T. Rep. 570; *Bidder v. Bridges*, 50 L. T. Rep. 287); but a party is not bound to disclose the names of his witnesses, unless the name sought to be disclosed is a material fact of the case: *Marriott v. Chamberlain*, 54 L. T. Rep. 714. As to discovery being resisted as being criminatory or penal, it has been held that, where the discovery will expose a person to the risk of any kind of punishment by way of pains, penalties, and forfeiture, he is not bound to give discovery. The swearing by a party that he believes the document will criminate him is sufficient (*Lamb v. Munster*, 47 L. T. Rep. 442), but the defendant cannot refuse discovery because he thinks that discovery would make him liable to a penalty, where such discovery is required by a plaintiff in a proceeding for the purpose of obtaining a judgment or order: *Derbyshire County Council v. Mayor of Derby*, 74 L. T. Rep. 747. There are, however, statutory exceptions to the general rule which provide that it shall be no ground for resisting discovery because discovery may tend to criminate the party giving the same, but in such cases the discovery is not to be used against the defendant in any other proceeding; thus for the publication of libels in newspapers the law makes special exceptions for discovery: 6 & 7 Wm. IV. c. 76; 32 & 33 Vict. c. 24; 33 & 34 Vict. c. 99; *Ramsden v. Brewley*, 33 L. T. Rep. 322; *Lefroy v. Burnside*, 41 L. T. Rep. 199. The protection of the rule extends to penal proceedings abroad: *United States of America v. Macrae*, 17 L. T. Rep. 428.

Proceeding to consider the matter where privilege is claimed on the ground of public interest, we find that this privilege is founded upon public policy, and to prevent matters which concern the State, and the publication of which might be injurious to the State, from being made known. The privilege is generally confined to public officials' documents, provided the publication thereof would be injurious to the public interest.

When the objection to produce a document is taken at the trial, the head of the department must himself state on oath that, in his opinion, the production of such document would be