

of appeal contemplated by this Bill, of remitting to three or five judges the determination of questions of fact, is a complete innovation. It is tried for the first time in criminal law, and in my judgment it is fraught with the greatest danger to innocent persons. It astounds me that it should be thought that a Court of Appeal in a criminal case should hear the case in the absence of the prisoner. I do not know why his presence is to be unnecessary.

Further, it is generally recognized, and in support of this statement I might cite passages from the Report of the important Commission presided over in 1879 by Lord Blackburn, that if there is to be an appeal in criminal cases there must be a new trial, and it is because this is an innovation in, and a fundamental departure from, our criminal procedure that I think it right to enter my protest against it. I do not for a moment refer to the probable number of appeals. If this Bill were passed in its present shape there would be many hundreds of appeals, but I am not going to argue the question from that point of view. If it is right, it ought to be passed whatever may be the burden put on the country. But, as this Bill is framed, it gives an appeal to the rich which the poor cannot avail themselves of. This is no claptrap argument; it is the fact. If these appeals are to be of any use, there must be counsel, and solicitors, and all the documents and other matter must be put properly before the Court. Such a costly appeal may be for the benefit of the company promoter with any amount of money who has been charged with fraudulent conspiracy, but it will not benefit the poor man in the event of there having been some miscarriage of justice. The procedure is wholly insufficient to meet that difficulty. Moreover, the difficulties in the way of the practical working of this scheme are almost insuperable as the Bill is now framed.

I feel my responsibility so gravely in this matter that I do not hesitate to ask your Lordships to hear me on another part of the question. If I am right in saying that there has not been thought in past times necessity for this reform, has anything happened in the last few years to call for this particular amend-