

appeal on fact, and I hope to satisfy your Lordships that, instead of being an advantage to innocent persons, it would create a danger for them which no Court of Appeal could protect them against.

I would remind your Lordships what the essential difference is. In civil disputes you have two parties. One party does not know the details of the evidence to be given by the other party, sometimes not even the substance. That is entirely absent from the administration of criminal law. There are no two parties. It is the duty of the prosecution to make out their case to the satisfaction of the tribunal on fact, and that distinction affects the whole of our criminal procedure. Not only is there preliminary inquiry before magistrates and grand juries, but, if the prosecution propose to call any fresh evidence, they have to give notice to the person charged of what that fresh evidence is; and it is only in the very rare instance of some point being developed in the course of the trial by the defence that any evidence is heard of which intimation has not previously been given. So that in a criminal trial the accused goes into Court with full knowledge of the details of the evidence to be given against him.

What is the chief objection to the proposed change? It is my distinct conviction that such a procedure as is contemplated will undermine altogether the responsibility of juries, and will make them feel that it is not with them that the decision on the facts is ultimately to rest. They will feel that they have got behind them this Court of Appeal, so that they will be able to say, "We think the man is guilty. We are not quite sure on the evidence, but if we are wrong the Court of Appeal will set us right." That is a direct and serious danger as regards an innocent man. What is it that we now say—I have to say it a great many times a year—to juries when we are dealing with these matters? We have to tell them that theirs is the responsibility on matters of fact. We have to tell them that there is, in this respect, no appeal from their decision, and we have to tell them that unless they are as satisfied as they would be in any important event of their lives they ought to give the accused the bene-