

one man (even though a Judge) can as a rule form a better opinion as to facts than twelve men is doubtful. A Judge is "a man of like passions" with a jurymen, having the prejudices and whims belonging to his personality. The prejudice or whim of one jurymen however will not sway the rest, and so there is a certain safety in numbers, although the number twelve may be larger than necessary in this respect.

The importance of a correct finding as to facts is the foundation of a just judgment. The law depends on the facts. Again, it is an almost universal rule that an appellate Court takes the facts as found by the trial Judge. This is not always safe, for the trial Judge may have some unconscious prejudice or predeliction which may affect his mind as to the facts, and he has no one beside him to criticize his conclusions. If there were two or more Judges to find the facts, greater accuracy might be expected, and the law would be laid down as applicable to this correct state of facts, and not as applicable to the supposed facts. Many of our readers, we are sure, could call to mind cases where injustice had been done by reason of an appellate Court declining to pass judgment upon the correctness of the facts as found by the trial Judge, and so giving an unjust judgment.

The subject is a large one, and worthy of full consideration; and possibly the rules above referred to might, with advantage, be amended.

SOLICITOR ACTING AS TRUSTEE.

Sometimes a testator specially desires that his legal adviser should not only act as the solicitor under his will, but also as one of his trustees; and again it is frequently to a solicitor's own professional interest to be a trustee, as he thereby usually obtains a determining voice in the solicitorship of the trust. In either case a solicitor acting as a trustee and also being paid for professional services to the trust comes into conflict with the principle that a person in a position of trust cannot be *auctor in rem suam*.

Not to cite any further authority this principle will be found enforced and explained by Lord Chancellor Cranworth in the