#### Hoppe *vs.* Robb.

Where there is conflicting evidence upon a point submitted to, and passed upon by a ‘jury, their verdict will not be disturbed •, and the same rule applies where a question of fact is submitted to the *court without a jury.*

Appeal from the district court of the sixth judicial district.

*Mr.* Sandford, for plaintiff.

*Mr.* Tingley, for defendant.

*By the* Court,

BeNNett, J.

The action was for money loaned. The question for determination at the trial was whether the money was advanced as a loan, or by way of subscription for the purpose of establishing a newspaper at San José. There was conflicting evidence upon this point, and the judge of the district court found that the money was advanced as a subscription.

[\*374](#p374)"We bare frequently held that we would not review the verdict of a jury upon a question of fact, where there was conflicting or contradictory evidence, upon which the verdict was based. The same rule applies to the finding of a judge, to whom a question of fact is submitted, and upon which he has passed. The j udgme-nt in this cause must, therefore, be affirmed.

Ordered accordingly.