

Opinion of the Court.

The questions raised on the admission of evidence to prove the existence and discovery of a lode by defendants, were, we think, well decided and need no further comment.

The decree of the Supreme Court of Utah is affirmed.

EILERS v. BOATMAN & Others.

APPEAL FROM THE SUPREME COURT OF THE TERRITORY OF UTAH.

Submitted April 3d, 1884.—Decided April 14th, 1884.

Practice.

The Supreme Court of a Territory states as conclusion of law matter which should be stated as finding of fact. This court treats it as a finding of fact, under the act of April 7th, 1874, 18 Stat. 27

Action for the settlement of adverse claims to mineral lands under § 2326 Rev. Stat.

Mr. C. K. Gilchrist for appellant.

Mr. C. W. Bennett for appellees.

MR. JUSTICE MILLER delivered the opinion of the court.

This, like *Chambers v. Harrington*, ante, 350, is an appeal from the decree of the Supreme Court of Utah in a contest for a mine carried on under § 2326 of the Revised Statutes.

The appellant does not deny the priority of location, or the continuous work on the Nabob—the claim of the appellee—but insists that the notice and description of the claim of the defendants were not sufficient to apprise other prospectors of its precise location.

This, in the first place, is matter of fact, and was found by the court below against appellant, for we think that the following language, though called by the judge a conclusion of law, is really a finding of facts, namely:

“1. That the notice of the location of the Nabob mining claim contained a sufficient description by reference to natural

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objects and permanent and well-known monuments to identify the same.

"2. That said Nabob claim was so marked on the ground that its boundaries could be readily placed."

If, however, we revert to the specific findings of fact so named in the record, we think the second and fourth findings, which give a more minute description of the courses, distances, natural objects, and stakes, justify the two conclusions above recited.

A point is made by appellant that the Flagstaff Mining Company was in possession of the lode at the time the Nabob claim was located.

We do not see how this would improve the subsequent location of appellant.

But it is sufficient to say that no such finding is made by the court in regard to the Flagstaff claim.

By chapter 80 of the acts of Congress, approved April 7, 1874, 18 Stat. 27, this court is required to accept the findings of fact made by the Supreme Courts of the Territories as true on appeal to this court. See *Stringfellow v. Cain*, 99 U. S. 610; *Hecht v. Boughton*, 105 U. S. 235.

In this case the Supreme Court in its judgment affirms the findings of the District Court. As we think the judgment of the Supreme Court of Utah was right on the facts so found, there is nothing left but to

Affirm the judgment, and it is so ordered.