

KNOX AND ANOTHER *v.* NEW IDRIA MINING
Co.

Circuit Court, D. California. October 12, 1880.

Wheaton & Scrivner, for complainants.

McAllister & Bergin, for defendant.

FIELD, C. J. This case is, in its essential features, similar to that of *Knox & Osborn v. The Quicksilver Mining Co.* [*ante*, 809.] The use by the defendant of a pigeon-hole partition on one side of the furnace, between the ore chamber and fire chamber, does not affect the conclusions reached. The defendant has no pigeon-hole partition between the ore chamber and vapor outlet, and no equivalent for such pigeon-hole partition. The fire-place in the defendant's furnace is on a level with the bottom of the ore chamber, while in the complainants' furnace it is some 12 feet above the bottom of the ore chamber. The relative position of the fire-place and the vapor outlet in the defendant's furnace is not such as to create a cross draft, which is the main feature of the complainants' furnace. The draft in the defendant's furnace is a vertical draft.

A decree of dismissal, with costs, must be entered in this case, and it is so ordered.

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