

Syllabus.

NICKLE and Another *v.* STEWART and Another.APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR
THE DISTRICT OF WEST VIRGINIA.

Argued April 17th, 1884.—Decided May 5th, 1884.

Review.

A bill presented as a bill of review showing no errors of law on the face of the record and not alleging a discovery of new matter since the rendering of the decree, the court below properly refused leave to file it.

Mr. J. W. Davis for appellants.

No appearance for appellees.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

Without intending to decide that an appeal lies to this court from an order of a circuit court, or of a district court exercising circuit court powers, refusing leave to file a bill of review, we hold that the refusal in this case was right. The bill as presented has none of the characteristics of a bill of review. No errors of law appearing on the face of the record are assigned, and there is no allegation of any discovery of new matter since the decree was rendered.

Affirmed.

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BURNHAM and Another *v.* BOWEN.APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR
THE DISTRICT OF IOWA.

Argued April 10th, 1884.—Decided May 5th, 1884.

Railroad.

Debts contracted by a railroad corporation as part of necessary operating expenses (for fuel, for example), the mortgage interest of the company being in arrear at the time, are privileged debts, entitled to be paid out of current income, if the mortgage trustees take possession or if a receiver is appointed in a foreclosure suit.

If the current income of the road is diverted to the improvement of the prop-