

BISCOE ET AL. vs. MORRISON.

As to the right of the Real Estate Bank to foreclose mortgages for stock debts.

A bill of review must be verified by affidavit, as required by *sec. 114, chap. 28, Dig.*

Appeal from the Chancery side of the Clark Circuit Court.

PIKE, for the appellants.

WATKINS & CURRAN, contra.

Mr. Justice WALKER, delivered the opinion of the court.

The bill of review, upon which the decree was rendered in this case was based upon the assumption that there existed no right of action in the trustees of the Real Estate Bank under the decision of this court in the case of *Duncan et al. vs. Biscoe et al.* (2 *Eng.* 175.) That decision has been overruled by this court in the case of *Wilson vs. Biscoe et al.*, decided at the present term of this court. The opinion delivered in that case is decisive of the question presented in this. The bill of review was not verified as required by the *114th sec. ch. 28, Dig.*, and for this reason as well as the fact that it contains no sufficient equity, it was improper to have rendered a decree upon it.

Let the decree of the Clark circuit court be reversed and the cause remanded with instructions to dismiss the bill of review.