

Laws of Utah, 379), authorized to be passed by the act of Congress before mentioned, gave to the party "entitled to the occupancy or possession," as well as to the "occupant or occupants," the right to apply for the judgment by the Probate Court, upon which, when rendered, the mayor was to execute his deed. If this were not so, the right would be clearly within the equity of the act of Congress, and conferred by it.

The rejection of the appellant's claim and the adjudication in favor of Smith, who had not then a shadow of right to the premises, by the Probate Court was, therefore, a gross error, and the Supreme Court of the Territory repeated it by affirming the judgment.

The judgment of the latter court will, therefore, be reversed, and the cause remanded with directions to proceed in conformity to this opinion; and it is

*So ordered.*

NOTE. — *Hussey v. Merritt*, appeal from the Supreme Court of the Territory of Utah, was argued at the same time and by the same counsel as was the preceding case. MR. JUSTICE SWAYNE stated that the opinion in that case was decisive of this. The cardinal question here, as there, was as to the validity of the proceedings touching the sale under the Bernhisel mortgage, and the result must be the same.

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### MILLS v. SCOTT.

1. The statute of Georgia of March 16, 1869, requiring actions for the enforcement of rights of individuals under acts of incorporation or by operation of law, which accrued prior to June 1, 1865, to be brought before Jan. 1, 1870, does not apply to claims against the estate of a deceased person, so as to exclude the time which a previous statute allowed to administrators to ascertain the condition of the estate, and to creditors to file their claims.
2. A court of equity is the proper tribunal to ascertain the proportion of indebtedness chargeable to a stockholder of a bank on his personal liability. But as by the law of the State, as declared by its highest tribunal, an action of debt will lie where the amount of the bank's outstanding indebtedness and the number of shares held by the stockholder are known and can be stated, the extent of his liability in such cases being fixed, and the amount with which he should be charged being a mere matter of computation, a similar action at law will be sustained in such cases in the Circuit Court of the United States.