

Case No. 16,410.

UNITED STATES v. STRICKER.

{12 Blatchf. 389.}<sup>1</sup>

Circuit Court, S. D. New York.

Dec. 21, 1874.

FORFEITED RECOGNIZANCES—MOTION TO REMIT—PRACTICE.

An action having been brought on a forfeited recognizance, and a motion being made, under section 1020 of the Revised Statutes, to remit the forfeiture, on the ground that the party bound to appear was, when called, in the custody of a state officer under a warrant issued out of a court of the state, in a civil action, *held*, that the motion must be denied, on the ground that the question could be best determined on the trial of the action.

This was a motion [against Samuel Stricker], made under section 1020 of the Revised Statutes, to remit the penalty of a forfeited recognizance, on the ground that the party bound to appear was, when called, in the custody of a state officer under a warrant issued out of a court of the state, on a criminal charge.

Thomas Harland, for the motion, cited *Caldwell v. Com.*, 14 Grat. 698; *U. S. v. Feely* [Case No. 15,082]; *People v. Bartlett*, 3 Hill, 570.

BENEDICT, District Judge, denied the motion, upon the ground that the question could be best determined on the trial of the action which had been brought upon the forfeited recognizance.

<sup>1</sup> [Reported by Hon. Samuel Blatchford, District Judge, and here reprinted by permission.]