

fore, presented his petition in this court, asking for an injunction to restrain said creditors and their counsel from further prosecuting their *scire facias* in said case.

*W. K. Jennings*, for the bankrupt.

*C. C. Dickey* and *George Shiras, Jr.*, for the creditors.

ACHESON, J. Mr. Blumenstiel, in his treatise on the Law and Practice in Bankruptcy, at page 452, says:

"If, however, the time stipulated in the resolutions for the payment of the composition has passed, the court will not restrain any action brought by a creditor who may seek to recover his whole debt, notwithstanding the settlement. The debtor, in such a case, will be left to interpose such defense by pleading the resolutions, or otherwise, as he may deem advisable."

This doctrine is reasonable, and is fully supported by the authorities cited by this author, one of which is a decision of the late Judge KETCHAM. *In re Lytle*, 14 N. B. R. 457. In the analogous case of an execution against a discharged bankrupt it is held that the bankrupt court will not interfere by injunction, (*Penny v. Taylor*, 10 N. B. R. 200,) nor will the bankrupt court protect, by injunction, the vendee of the bankrupt's property sold by the assignee from hostile claims. *Adams v. Crittenden*, 17 FED. REP. 42. In the present case it is not to be doubted that the state courts will give proper effect to the composition in bankruptcy.

And now, May 14, 1884, the motion for an injunction is dismissed without prejudice to the right of the bankrupt to set up the composition in bankruptcy by plea or otherwise.

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### UNITED STATES v. BARGER.

(*District Court, W. D. Pennsylvania. June 3, 1884.*)

#### CRIMINAL LAW—REMISSION OF FORFEITED RECOGNIZANCES.

During the term at which a recognizance in a criminal cause is forfeited the court will take off the forfeiture where substantial justice is thereby subserved, although the case may not be strictly within the letter of section 1020 of the Revised Statutes, relating to the remission of forfeited recognizances.

*Sur Rule to Show Cause why forfeiture of recognizance should not be taken off.*

*Wm. A. Stone*, for the United States.

*Hugh W. Weir* and *J. M. Garrison*, for defendant.

ACHESON, J. During the term when it is rendered or entered of record, a judgment or an order, however conclusive in its character, is under the control of the court pronouncing it, and may then be set aside, vacated, or modified. *Bronson v. Schulten*, 104 U. S. 410. Upon this principle. I think the court has the power to take off the forfeiture of the recognizance in this case, although it may not be

strictly within the letter of section 1020 of the Revised Statutes. The recognizance here was taken, not for the defendant's appearance for trial, which strictly seems to be the case contemplated by section 1020, but after trial and conviction, and was conditioned for the defendant's appearance on the first day of the present (May) term, to abide the sentence of the court. He did not appear then, but did subsequently during the term, and was sentenced. The party making application for the remission is the bail, who certainly was guilty of no "willful default," however it may have been with the defendant himself. Public justice does not require the penalty to be enforced if the defendant pay his fine and costs. The case is within the spirit and reason of the said section 1020, and substantial justice will be subserved by remitting the forfeiture upon terms.

And now, June 3, 1884, it is ordered that the forfeiture of said recognizance be taken off and the penalty remitted, upon condition that the defendant pay the fine imposed on him, and the costs of prosecution.

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PALMER v. TRAVERS.

(Circuit Court, S. D. New York. June 6, 1884.)

PATENTS FOR INVENTION—THREATENING SUITS FOR INFRINGEMENT—INJUNCTION.

Courts of equity have no jurisdiction of libel or slander affecting title to a patent or patent-right, or any other slander or libel, unless threatened or apprehended repetition make preventive relief proper and necessary. The remedy for past injuries of that nature is an action at law.

In Equity.

*Edwin H. Brown*, for orator.

*Louis W. Frost*, for defendant.

WHEELER, J. This suit is brought upon written representations to dealers in hammocks that hammocks made by the orator infringe a patent of the defendant, and threats of suit for the infringement, contained in letters from the defendant's attorneys addressed to such dealers. The bill does not allege that the defendant threatens, nor that the orator believes he intends to continue such representations or threats, nor even that the orator fears he will. The proof does not go, in this respect, beyond the bill. These representations by letters addressed to persons or firms do not import that they are to be continued, as circulars or advertisements inserted in stated continuous publications might, but each is complete in itself and stands by itself. Courts of equity have no jurisdiction of libel or slander affecting title to property or property rights, or any other slander or libel, unless threatened or apprehended repetition makes preventive relief proper and necessary. The remedy for past injuries of that nature is un-