

Burke *v.* McKay.

vidual, who is an alien, seeking redress for a supposed wrong done him by another private individual, who is a citizen of New York. It is plain, therefore, that this court has no original jurisdiction to entertain the present petition; and we cannot issue any writ of *habeas corpus*, except when it is necessary for the exercise of the jurisdiction, original or appellate, given to it by the Constitution or laws of the United States. Without, therefore, entering into the merits of the present application, we are compelled, by our duty, to dismiss [\*66] the petition, leaving the petitioner to seek redress \*in such other tribunal of the United States as may be entitled to grant it. If the petitioner has any title to redress in those tribunals, the vacancy in the office of the judge of this court assigned to that circuit and district creates no legal obstruction to the pursuit thereof.

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SPALDING *v.* THE PEOPLE OF THE STATE OF NEW YORK,  
EX REL. FREDERICK F. BACKUS.

An appeal bond given to the people or to the relator is good, and if forfeited, may be sued upon by either.

*Beardsley* moved to dismiss the writ of error in this case, because Spalding had given a bond to The People of the State of New York, or Frederick F. Backus.

But Mr. Justice STORY delivered the opinion of the court, and said that the bond was good, and, if forfeited, might be sued upon in the name of the people or of the relator, at the option of the government.

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GLENDY BURKE, PLAINTIFF IN ERROR, *v.* ROBERT MCKAY.

By the general law merchant, no protest is required to be made upon the dishonor of any promissory note; but it is exclusively confined to foreign bills of exchange.<sup>1</sup> Neither is it a necessary part of the official duty of a notary, to give notice to the endorser of the dishonor of a promissory note.

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<sup>1</sup> CITED, *in dissenting opinion*. *Musson v. Lake*, 4 How., 279, 282; *S. P. Bailey v. Dozier*, 6 How., 23; *Wanzer v. Tupper*, 8 How., 568.