

MAY SESSION, 1784.

THE SPEEDWELL.

BAIN, *et al.*, appellants, *v.* The SCHOONER SPEEDWELL *et al.*, appellees.

Treaty of peace.

A vessel captured after the signing of preliminary articles of peace, cannot be condemned as prize.

THIS was an appeal from the Admiralty of the State of Rhode Island, where the schooner had been condemned as prize; and the record was submitted to the decision of the court, without argument. On the 24th of May 1784, GRIFFIN, READ and LOWELL, the presiding Commissioners, delivered the following judgment:

BY THE COURT.—It appearing by the inspection of the record, that the schooner in question, was captured from the British, since the operation of the preliminary articles of peace (to wit, on the — day of —), the condemnation cannot be sustained.

Decree reversed.

MAY SESSION, 1787.

*LUKE, &c., *v.* HULBERT *et al.*

[*41

Appeal.

The resolution of Congress of June 1786, gave a discretionary power only to the commissioners of appeal, to allow an appeal, where particular circumstances, consistent with right and justice, might, in their opinion, require it.

THIS case now came before the court, on a petition, that the appeal should be sustained: but GRIFFIN, READ and LOWELL, Commissioners, rejected the application in the following terms.

BY THE COURT.—In this case, the judgment of the court will be determined by the construction of the resolution of congress of June 1786.

Congress having established a system of appeals, and in that system having limited a period, beyond which appeals are not to be entered, we think, the resolution of June 1786, could only mean, that, in conformity with this prior establishment, the judges might use a discretionary power, where particular circumstances, consistent with justice and right, may, in their opinion, require it.

Whatever decree the court might have made, upon the merits of the cause, and although the property may have been illegally condemned in the maritime courts; yet, under all the circumstances of the present case, we are unanimously of opinion, that justice and right do not require, that the appeal should now be sustained.

Petition dismissed.