PER CURIAM. The petition for rehearing is denied. The motion to certify questions of law to the supreme court, having been filed after the decision of the case, and pending the motion for a rehearing, will not be entertained; and, the petition for a rehearing having been denied, the motion to certify is directed to be stricken from the files.

LOO WAY v. UNITED STATES.

(Circuit Court of Appeals, Ninth Circuit. February 3, 1896.)

No. 248.

In Error to the District Court of the United States for the Southern District of California.

This was a proceeding by arrest to determine the right of Loo Way, a Chinaman, to remain in the United States. The circuit court commissioner found the facts as charged, and ordered his removal. This order was affirmed by the district court. 68 Fed. 475. Defendant brings error.

Haines & Ward, for plaintiff in error.
Henry S. Foote, for the United States.

Before McKENNA and GILBERT, Circuit Judges, and HAWLEY, District Judge.

PER CURIAM. The facts of the case are fully stated by the learned judge who tried the case in the district court, and, for the reasons and authorities (to the latter it is only necessary to add Lai Moy v. U. S., 14 C. C. A. 283, 66 Fed. 955, and Lew Jim v. U. S., 14 C. C. A. 281, 66 Fed. 953, decided by this court) expressed and cited by him, the judgment is affirmed.

MUIRHEID v. CONSOLIDATED ICE-MACH. CO.

(Circuit Court of Appeals, Third Circuit. March 3, 1896.)

No. 22.

In Error to the Circuit Court of the United States for the District of New Jersey.

Sur motion to docket and dismiss writ of error.
Frank S. Katzenbach, Jr., for defendant in error.
Dismissed, pursuant to the sixteenth rule.

WHEATON v. NORTON et al.

(Circuit Court of Appeals, Ninth Circuit. February 14, 1896.)

No. 141.

Appeal from the Circuit Court of the United States for the Northern District of California.

This was a petition for a rehearing. See, for former opinion, 17 C. C. A. 447, 70 Fed. 833.

PER CURIAM. The petition for rehearing is denied. The motion to certify questions of law to the supreme court, having been filed after the decision of the case, and pending the motion for a rehearing, will not be entertained; and, the petition for a rehearing having been denied, the motion to certify is directed to be stricken from the files.

BARR v. MAYOR, ETC., OF CITY OF NEW BRUNSWICK et al.

(Circuit Court of Appeals, Third Circuit. March 9, 1896.)

CIRCUIT COURTS OF APPEAL—JURISDICTION.

The circuit courts of appeal have no jurisdiction, under sections 5 and 6 of the act of March 3, 1891, of an appeal in which the only question involved is whether the proposed acts of the mayor and council of a city would deprive the appellant of his property without due process of law, in violation of the fourteenth amendment to the constitution of the United States. McLish v. Roff, 12 Sup. Ct. 118, 141 U. S. 661; Lau Ow Bew v. U. S., 12 Sup. Ct. 517, 144 U. S. 47, followed.

Appeal from the Circuit Court of the United States for the District of New Jersey.

This was a suit in equity by Henry J. Barr to enjoin the city of New Brunswick and the Pennsylvania Railroad Company from taking complainant's property under the power of eminent domain. The circuit court denied the injunction and dismissed the bill. 67 Fed. 402. From this decree complainant appealed, and defendants have now moved to dismiss the appeal for want of jurisdiction.

Charles E. Gummere, for appellees.

Before ACHESON, Circuit Judge, and WALES, District Judge.

ACHESON, Circuit Judge. The only question in this appeal is whether the proposed acts of the appellees, the defendants below, under an ordinance of the city of New Brunswick, N. J., would be contrary to and in violation of the fourteenth amendment to the constitution of the United States, in that the same would deprive the appellant of his property without due process of law. Clearly, the case is one which "involves the construction or application of the constitution of the United States," or in which "the law of a state is claimed to be in contravention of the constitution of the United States"; and therefore, under sections 5 and 6 of the act "To establish circuit courts of appeal," etc., approved March 3, 1891, this court has no jurisdiction to review the decision of the court below upon that question. McLish v. Roff, 141 U. S. 661, 12 Sup. Ct. 118; Lau Ow Bew v. U. S., 144 U. S. 47, 56, 12 Sup. Ct. 517.

The motion to dismiss the appeal for want of jurisdiction must be allowed. Appeal dismissed.

DAVENPORT et al. v. CLOVERPORT et al.

(District Court, D. Kentucky. February 3, 1896.)

1. DISTRICT COURTS—JURISDICTION—DEPRIVATION OF CONSTITUTIONAL RIGHTS—REV. ST. § 563.

A state statute which consolidated two school districts, and established a board of trustees of a high school therein, provided that the trustees might levy a tax upon the white persons in such district; that they should have control of all the school funds of the district; and that all white persons of school age within the district should have equal rights of admission to the schools, free of charge, and the benefit of instruction therein.