

Robinson case—and that where there has not been an adjudication upon the merits, though the applicant seeks for such adjudication.

It is objected, however, that the application for a second writ is too late, and sec. 23 of ch. 155, R. S. C. 1906, is referred to. That section provides: "A fugitive shall not be surrendered until after the expiration of 15 days from the date of his committal for surrender; or, if a writ of habeas corpus is issued, until after the decision of the Court remanding him."

No trace of any such provision is to be found in the early legislation of Upper Canada. The first Act is (1833) 3 Wm. IV. ch. 7, which, upon being carried into the Revised Statutes of Upper Canada in 1843, becomes 3 Wm. IV. ch. 6 (see p. 592 of that revision), and is consolidated in 1859 in C. S. U. C. as ch. 96.

Nor do the statutes of the province of Canada contain such a clause: (1849) 12 Vict. ch. 19, consolidated in 1859 in C. S. C. as ch. 89. Nor the Imperial legislation, 6 & 7 Vict. ch. 76, which may be read in extenso in Egan's Law of Extradition (1846), pp. 36 et seq.

The first provision of this character is to be found in the Dominion Act of 1868, 31 & 32 Vict. ch. 94, sec. 3, which provides that "it shall be lawful for the Governor, at any time not less than 7 days after the commitment of an accused person . . . to order the person . . . to be delivered to . . . the United States." This chapter will be found printed amongst the reserved Acts. The legislation of 1870, 33 Vict. ch. 25, did not affect this. The Act of 1873, 36 Vict. ch. 127, though formally repealed by the Act of 1877, 40 Vict. ch. 25, was never printed. The Act of 1877 provides, sec. 17, for a period of 15 days in lieu of 7, as previously provided, and this was continued in sec. 16 of the R. S. C. 1886 ch. 142, now appearing in sec. 23 of the R. S. C. 1906 ch. 155.

This provision is well known to have been introduced by reason of the case of *Ex p. Ernest Sureau Lamirande*, 10 L. C. Jur. 280. . . . Lamirande had been charged with making false entries in the books of the Bank of France at Poitiers, thereby defrauding the bank of 700,000 francs.