

States has become too hot to hold them. They leave their own country for their country's good, and we should send them out of ours on the same principle. If we could, in addition to unloading on the United States all our bank-wreckers, swindlers and embezzlers, succeed in sending back to that country all its criminal refugees of the same class, we would have reason to congratulate ourselves on so desirable a riddance. Why should we let the "right of asylum" trouble us? We can always treat that right with respect whenever we choose to do so, but there is no reason for harbouring to our own detriment men who are wanted by our neighbours because they have committed crimes.

It would be out of the question for us to surrender alleged criminals in this way to any country with a civilization lower than our own. We could not give up men if we did not know that they would get a fair trial, that they would be considered innocent until proved guilty, that they would not be subjected to torture, and that they would not be crucified, or impaled, or put to death in some other barbarous fashion. We could not surrender alleged criminals to Russia, or Turkey, or China, even under an extradition treaty, without some guarantee that they would be fairly dealt with in accordance with the requirements of sound jurisprudence, and with the dictates of humanity. The best guarantee that they would be so dealt with in the United States is that the civilization of that country is practically identical with our own, that their methods of ascertaining the guilt or innocence of an accused person are very similar, and that there is a like degree of similarity in the penalties attached to crimes. Such a frank recognition by us of the equality of the United States would in all probability secure the voluntary surrender of such criminals as we might desire to convict and punish in this country, and thus bring about a condition of perfect free trade in criminals without the intervention of any treaty stipulations to hamper and restrict the process of extraditing them.

Though the tendency of legal opinion in the United States has long been towards a narrow view of extradition, yet it is not asserted that criminals must never be delivered up to foreign nations except under treaty provisions. If a surrender were made without the authority of a treaty it would be based on "comity." In the early history of the United States a sound and liberal view was taken of the subject by the government officials. In 1796, Mr. Pickering, Secretary of State, expressed his concurrence with Mr. Liston, then British Minister at Washington, in the opinion that "while the reciprocal delivery of murderers and forgers is expressly stipulated in the 27th article of our treaty with Great Britain, the two governments are left at liberty to deliver other offenders as propriety and mutual advantage shall direct." The same Secretary, in a letter to the Governor of Vermont, says: "The reciprocal delivery of murderers and forgers is positively stipulated by the 27th article of the treaty; the conduct of the two governments with respect to other offenders is left, as before the treaty, to their mutual discretion, but this discretion will doubtless advise the delivery of culprits for offences which affect the great interests of society." Chancellor Kent, in 1826, went much further than this, holding that "it is the duty of the government to surrender up fugitives on demand, after the civil