aws of his own State? In Canada the Dominion Parliament defines "crime," and there is therefore with us substantial uniformity. It is not so with the United States. One State legislature may treat a certain offence as a crime, while another does not. In one State a certain act may be included by law under the term "forgery," while in another State the same act is excluded from its scope. Even in the same State what is a forgery now may not have been one when the Ashburton treaty was negotiated; and so of other offences.

It may be said that to give such scope to an extradition treaty would have the effect of including under its operation what are called "political offences." The answer is that "political crimes" may be specifically excepted, and that the right to decide whether an offence is "political" or not, must, in the last resort, rest with the Government of the country, which is asked to surrender a fugitive. There is a fair amount of common-sense agreement, tacit or explicit, between Great Britain and the United States, as to the distinction between political and other crimes. The Canadian Government never asked for the surrender of Louis Riel, though he was technically and undoubtedly guilty of the murder of Scott. Had John Brown escaped to Canada after the Harper's Ferry affair, no demand would have been made for his surrender, and if it had been made it would have met with the response that was subsequently given to the demand for the surrender of Bennett Young.

It is worthy of note that "political offences" are not mentioned in the Ashburton Treaty, nor is it there stipulated that a fugitive shall not be tried for any offence other than the one alleged as the basis of the demand for his surrender. The question whether a person extradited for one crime may properly, under the treaty, be tried for another, has been variously decided by courts, and variously pronounced upon by statesmen and jurists. The weight of authoritative opinion in both Great Britain and the United States seems to favour the theory that an extradited fugitive is entitled to his asylum as a kind of personal right, and that before he is apprehended on any new charge he should, whether tried or convicted on the extradition charge or not, be permitted to return to the place from which he was taken. This idea of the personal right of a criminal to a place of refuge seems to me a very absurd and mischievous one.* A fair construction of the Ashburton Treaty does not apparently warrant the view that by specifying seven offences for which a fugitive might be extradited, either the negotiators of the treaty or the governments which ratified it meant to limit the right of the recovering state to try the surrendered person for offences for which he could not have been extradited. We have the authority of President Tyler, who in 1842 submitted the Ashburton Treaty to the Senate, for saying that, "in this careful enumeration of crimes, the object has been to

*Chief Justice Taylor, of Manitoba, appears to have taken the same view of the matter in the Fant case (23 CANADA LAW JOURNAL, p. 422), while the opposite view was taken by Chief Justice Richards in the Burley case (1 CANADA LAW JOURNAL, p. 46), where he says: "When surrendered, I apprehend that the United States Government would, in good faith, be bound to try him for the offence upon which he is surrendered.