

not the attempt or conspiracy to commit this offence; and though the treaties apply to accessories (*complices*) as well as principals (*auteurs*), this provision appears to apply to the complete offence, and not to attempts to commit it. These considerations exclude, in our opinion, the possibility of surrender under the treaties for any dealings with explosives, with whatever intent—a view which the advisers of the Government seem to share.

The charge against Tynan of complicity in the Phoenix Park murders stands on a different footing. At the date of the murders he was a British subject and in Dublin, and the grand jury have returned a true bill against him as one of the murderers. Even before the bill was found he had left Ireland, and he has become a citizen of the United States, and his surrender from the States has, we believe, been refused on the ground that the murder was a political offence. The fact that he is an American citizen is not, *per se*, any ground for refusal by France of his surrender. French subjects are not extradited to England, but there is good reason for saying that the United States will raise no objection on the ground of nationality to his surrender. In the case of Dr. Herz, also an American citizen, France did not hesitate to demand, nor did the United States oppose his surrender; and in England the nationality of the fugitive is immaterial for extradition purposes except in the few cases—*e. g.*, France and Germany—where a foreign State will not extradite its own citizens. Neither under the Ashburton Treaty nor that now in force with the United States is nationality a bar to surrender. But two obstacles remain, one of French criminal procedure, the other the question whether the Phoenix Park murders were a political crime. Art. 637 of the French Criminal Procedure Code limits the right to prosecute for crime to a period of ten years from its commission or the last act of *d'instruction criminelle ou de poursuite*. Beyond application to the United States and issue of warrants on the indictment found, nothing has been or could have been done since 1882 in the case of Tynan, the procedure by outlawry being practically obsolete and not having been applied, although resort to this procedure might have resulted, or might even now result, in a judgment corresponding to the French *conviction par contumace*. The treaty with France definitely provides that a fugitive offender is not to be surrendered if prescription has been acquired in respect of