

counsel from among the American members of the bar resident in the colony to American citizens accused of crime.

If there were no other reasons for limiting the practice in the courts of law to members of the bar who are British subjects, duly qualified for the privilege in conformity with the general custom of all nations, than that the act which established the judiciary of the colony has determined the special classes of lawyers who are competent to practice at the bar, his excellency conceives the question is thereby placed beyond the control of the executive.

For your more particular information upon this point I have the honor to enclose a copy of such of the rules of court as bear upon the subject.

The power to admit persons eligible to practice in terms of these rules is given to the chief justice.

His excellency is convinced that you labor under misapprehension if you suppose, as one portion of your letter would seem to indicate, that the lives and liberties of people of any nationality are put in jeopardy out of deference to what you are pleased to term a crude forensic etiquette; or that American citizens accused of crime in these colonies will be or have already been forced to trial without benefit of counsel and unadvised as to their rights.

As you justly observe, the plain dictates of humanity forbid, and the humane and liberal practice of the courts very carefully prevent, the possibility of any such deplorable consequences.

With the view of satisfying you upon this matter, his excellency would explain: That all persons accused of crimes are tried by jury trial; that the magistrates who are commissioned to preside at such trials are gentlemen well known in the community for the respectability and humanity of their characters, and whose sentences are certainly not tinctured with severity; that on all criminal trials the accused are allowed every reasonable facility for proving their innocence; that they are not only permitted but invited to have professional counsel or private friends of their own selection, without regard to nationality, to advise and assist them before and at their trials; that the only restriction of professional counsel's privileges is that of *pleading*; that this prohibition extends to British subjects equally with the citizens and subjects of all other nationalities, by reason of there not being, at the present moment, legal practitioners in the colonies eligible to practice in the courts—an inconvenience only temporary; and that for the same reason the crown, as prosecutor, is debarred the privilege of counsel to plead against the accused.

You will thus see that American citizens accused of crimes are treated exactly similar to the subjects of her Majesty.

The gravity of those allegations made by you caused his excellency so much concern that, in addition to other investigations to ascertain the truth, he applied to one of the magistrates before spoken of for exact information, and received an answer, of which a copy is enclosed for your information.

His excellency feels confident that on your being informed of this liberal and humane practice of the criminal courts, rendered necessary by the present unlooked-for circumstances of the country as an unavoidable temporary expedient, you will readily perceive and admit