

William the Fourth, when by special statute they were permitted counsel learned in the law, or by attorneys in the courts where attorneys practice as counsel.

It therefore follows that no power to assign counsel is vested in the executive.

I have the honor to be your excellency's obedient servant,  
GEORGE PEARKES,  
*Crown Solicitor and Attorney.*

HOTEL DE FRANCE,

*Victoria, Vancouver's Island, November 3, 1858.*

SIR : Indisposition and absence from town have caused your note of the 14th ultimo to remain unanswered until now.

I am therein advised that your excellency finds it impossible to interpose, in accordance with the request contained in my note of the 6th ultimo, to cause counsel to be assigned from among the American members of the bar, resident in the colony, to American citizens accused of crime, in the absence of British subjects authorized to practice in the colonial courts. A former note had assured me of your disposition to accord to the request your most favorable consideration. That the subject would receive such favorable consideration I had every reason to expect. The plain dictates of humanity and justice should forbid that the lives and liberties of people of any nationality should be jeopardized, simply out of deference to the forms of a crude forensic etiquette. Still more was I justified in hoping that these forms would be set aside, when their observance would operate most harshly and unjustly against citizens of a power on terms of peace and amity with the nation whose government you serve, and at a time when the bonds of friendship which happily subsist between the two countries are being strengthened and drawn closer day by day.

I need not say that I am greatly disappointed at the conclusion at which your excellency has arrived. The consequence of that conclusion will be that American citizens accused of crime in these colonies will be, as some have already been, forced to trial without benefit of counsel, ignorant as they may be of the law, unadvised as to their rights, unacquainted with the rules of evidence or the regulations of the courts, and denied all those facilities for proving their innocence that in every well regulated government are afforded to those unfortunates who find themselves in antagonism to the law. But it is not for its grave injustice, nor for the manifold hardships it will work, that such a course is alone to be deplored. It will naturally prove a pregnant and oft-recurring source of irritation and ill feeling to the Americans residing in these colonies. It will force them to contrast the treatment of their countrymen here with the treatment of British subjects in the United States. They know that there, no foreigner, however friendless or lowly he may be, how atrocious soever the crime of which he stands accused, is put upon his trial without counsel to represent him; and that when he is too poor to command the services of the