

Caleb Cushing Papers

in this country for the purpose of transporting passengers to Cuba who intend on arrival there to take part in the rebellion - is not that a military enterprise within the statute? In all of these cases there has been, or will be, a fraudulent clearance at our Custom House and fraudulent shipping-articles so far as destination is concerned. The shipping-articles and clearance have been, or will be, all for port or ports in the West Indies without specifying the destination which is well known, and there is

Caleb  
Cushing  
Articles  
Shipping

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My dear General:

I have occasion now to consider, with a good deal of care, the right and duty of this Government to deal with shippers of munitions of war from this country to those portions of Cuba which are not open ports, and which afford the nearest access to the rebels in that island. My impression is that I have seen somewhere in print discussion by you of the topic, but after many days of search am unable to find it. It occurs to me that

after all it may be commensurations between us which rest in my mind. Can you give me any aid in the matter? and can you in addition give me a citation of authors - French, German, Italian, or Spanish, who treat the subject? Our Federal statute prohibits a military enterprise, but it tolerates the purchase and transportation, as a commercial venture, of munitions of war to rebels against a power with which the United States are on terms of friendship. What is the boundary line between the trans-

portation of such munitions of war, and a military enterprise? Is it not a military enterprise for the Cuban refugees in this city to furnish General Quesada with money by which he or they purchase a vessel loaded with material of war, employ a crew to navigate the vessel to the closed ports of Cuba, and General Quesada goes thereon as a military person in command?

If, on the other hand, a steamer is purchased or procured in any other manner by Cuban refugees or their partisans

Richard Webster  
Dec. 20, 1873

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no regular certificate of clearance by the Spanish Consul. If you can tell me where you have discussed the subject in print, or if you have not yourself, if you can point out to me where other publicists have considered it in any language, I shall be very grateful.

Still more delighted should I be if you could find time to dictate to a shorthand writer your general views of the legal relations of the question.

I need not say that I

shall be very happy to compensate a short-hand writer, and also to offer you a fee for your time and services in such business.

My own perception of the legal relations of the question are quite distinct, but, yet, I should like to co-ordinate them with the views of learned authors and publicists, and I have necessity of putting my views on paper immediately.

Faithfully yours  
Sidney Webster

Genl C. Cushing