

ED FLETCHER

January 29, 1940

Mr. Fred B. Wood
Legislative Counsel
State Capitol
Sacramento, California

Re: CABRILLO STATUE

My dear Fred:

Confirming conversation regarding the Cabrillo Statue, it was delivered in New York by the Portugese Government and intended for the San Francisco Exposition. When it arrived in San Francisco, I was informed there was a \$4000 or \$5000 customs duty, also the cost of its erection was so great. The Golden Gate International Exposition would not erect same but made a dummy and left the original in the warehouse. It was released by the Customs House on the assurance that it was to be possessed by the State of California.

Private individuals or Exposition officials, I do not know which, paid the freight from New York. Under the above circumstances, who has jurisdiction over the statue which is stored in a private garage in San Francisco. A committee claim ownership and control - some are from Oakland, some from San Francisco and some from Sacramento but San Diego wants the statue.

I am enclosing copy of SCR #10 introduced by me March 7, 1939. Will you please give me your legal opinion as to who has jurisdiction as to location and control on the assumption that the Customs authorities released the statue without payment of duty on the representation that it was donated to the State of California.

Sincerely yours,

EF/jv

FRED B. WOOD
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STATE OF CALIFORNIA
Office of Legislative Counsel

Sacramento, California,
January 29, 1940.

Honorable Ed Fletcher,
Senate Chamber,
State Capitol,
Sacramento, California.

Subject: S. C. R. relative to the placing
of the statue of Cabrillo as a
public monument at San Diego City
Request: #7155

My dear Senator:

This will confirm my oral expression of opinion that the subject of the statue of Cabrillo and its placement would not be within the scope of any of the items of the proclamation of the Governor convening the Legislature to meet in extraordinary session.

Therefore a legislative bill would not be in order for enactment at this session.

A concurrent resolution of this nature would not have the force of law, hence its adoption would not be "to legislate" and could legally be taken up for consideration irrespective of the scope of the Governor's proclamation.

Yours very sincerely,

Fred B. Wood

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FBW/mf



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Office of Legislative Counsel

Sacramento, California,
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Senate Chamber,
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Subject: S.C.R. relative to the placing of
the statue of Cabrillo as a
public monument at San Diego City.

Request: #7155.

My dear Senator:

In accordance with your request we have prepared and transmit herewith copies of the resolution declaring it to be the desire and policy of the legislature that this statue should be permanently located at San Diego, and requesting the state officials or other persons who may have custody, control, and jurisdiction over this statue to do all things necessary to accomplish this purpose.

In the short time thus far at our disposal we have not been able as yet to get hold of all of the facts necessary upon which to predicate an opinion as to the ownership of this statue.

If in fact it does belong to the State of California, it is probable that it was brought into the United States from Portugal, duty free, under the provisions of paragraph 1809 of section 1201 of Title 19 of the United States Code. This paragraph seems to allow in "works of art" imported in good faith "for exhibition at a fixed place by any state." Though even in such a case it would appear that a bond is required for the payment of lawful duties which might accrue should any such article be later sold or transferred.

Upon the other hand, it is conceivable that this statue may have been admitted duty free under paragraph 1807 of said section 1201 as an "original sculpture or statuary" if clearly not an "article of utility or for industrial use."

In neither case does it appear from said section 1201 that it was absolutely essential that title to the statue be vested in the State of California in order to make it

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admissible duty free. For example, if it came in under said paragraph 1809, it might have been brought in by "any society or institution established for the encouragement of the arts, science, agriculture, or education."

In other words, upon the basis of the present state of our information, we do not know whether this statue at the present time belongs to the State of California, to some private or public corporation in this state, or to some municipal corporation in this state, or to whom it belongs.

Accordingly, we have endeavored to express your resolution in terms sufficiently broad in scope so that the resolution may appropriately make an appeal to the owner, whoever the owner may be.

Yours very sincerely,

A handwritten signature in cursive script that reads "Fred B. Wood".

Fred B. Wood.

FBW:LD

Ed Fletcher Papers

1870-1955

MSS.81

Box: 34 Folder: 39

General Correspondence - Wood, Fred B.



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