

conditions it encountered in the performance of the work. I see nothing in these circumstances giving rise to equitable liability on the part of the Government.

The continued success of the policy of awarding public contracts by competitive bids depends, of course, on the knowledge that successful bidders will be held to their bids with the same strictness as if they were dealing with private contractors. Relieving bidders of losses occasioned by the submission of bids that were successfully low because of over-optimism or failure to account for risks would not only strike a serious blow at the integrity of the competitive bidding system but would be unfair to more provident bidders who might otherwise have received the awards. It would deprive the Government of benefits resulting from favorable circumstances occurring during the performance of a contract while requiring compensation for losses encountered as a result of unfavorable circumstances.

There are no circumstances in this case that would serve to distinguish it from others wherein contractors with the United States have suffered losses for which the Government was not responsible. In view of this fact and in the absence of any equitable considerations in favor of the contractor, I perceive no merit in the claim for special treatment in this case.

Accordingly, I am constrained to withhold my approval from the bill.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, August 12, 1955.

STEPHEN SWAN OGLETREE

H. R. 6232. I have withheld my approval of enrolled enactment H. R. 6232, 84th Congress, "To include as Spanish-American War service under laws administered by the Veterans' Administration certain service rendered by Stephen Swan Ogletree during the Spanish-American War."

The effect of this legislation would be to determine by legislative decree, contrary to the facts, that, for the purpose of laws administered by the Veterans' Administration, Stephen Swan Ogletree rendered at least 70 days' active military service as a member of Company G, 2d Regiment, Alabama Volunteer Infantry, and was honorably discharged therefrom. No benefits would accrue by reason thereof prior to the date of receipt of an application to be filed subsequent to the date of its enactment.

There have been a number of affidavits submitted in support of Mr. Ogletree's contention that he served on active duty during the Spanish-American War. These affidavits are all dated some 29 or more years after the occurrence of the events to which they relate. In some, the affiant could "almost" swear that Mr. Ogletree served with Company G, 2d Regiment, Alabama Volunteer Infantry. In others, the affiant states that Mr. Ogletree did serve with that organization. However, most of these affidavits are entirely consistent with the official records of the organization which show that any service of Mr. Ogletree with that organization was prior to the time that

it entered into active Federal service. In addition, the statement of one individual, who was of the opinion that Mr. Ogletree did serve in active Federal service, indicates that during such period the commanding officer of the company was J. H. Brazila. The records of the company show that Brazila did not command the company while it was in Federal service. Therefore, it is apparent that the passage of time has dimmed the recollection of the individuals who made these affidavits and that they have become confused as to the actual period of time during which the company was in Federal service or when Mr. Ogletree was a member thereof.

Military records pertaining to Mr. Ogletree show quite clearly that he was not a member of Company G, 2d Regiment, Alabama Volunteer Infantry, while that organization was in Federal service. The frequent muster rolls submitted on behalf of that organization, certified by the commanding officer and by the individual who acted as mustering officer, not only show the men who were present with the organization but also all men who were members of the organization during the period and who were absent for any reason whatsoever. The name of Stephen Swan Ogletree does not appear on any of these muster rolls.

Company G, 2d Regiment, Alabama Volunteer Infantry, was mustered into Federal service on May 31, 1898. During the Spanish-American War, regulations provided that before volunteer organizations were mustered into the service of the United States, the members thereof should be medically examined to determine whether or not they were physically qualified for active military service. Retained records of the 2d Regiment, Alabama Volunteer Infantry, clearly show that Mr. Ogletree was medically examined in accordance with such regulations, that he was rejected for service because of physical disqualification at least 12 days prior to the time that this organization was mustered into the service of the United States, and that he was returned to his home at Eufaula, Ala., through issuance of a "request for transportation," which provided as follows:

"M. No. 28570
Request for Transportation
Good for one day from date
Date. Mobile Ala May 19 1898
To The L & N RR Co
For John H. Nowlund and 26 men no
pounds extra baggage, Co & Regt. Co "G"
2d Regt Ala Vols
From Mobile Ala
To Eufaula Ala
Via The L & N and Central of Ga
En route from Mobile Ala
To Eufaula Ala
Remarks: Recruit Co G. 2d Regt Ala Vol
Rejected by Medical Board
Issued on authority of telegram dated
May 3 1898

H C CORBIN,
AG [Adjutant General]
[See otherside]
[other side]

Stephen S. Ogletree

Section 131 of the Legislative Reorganization Act, approved August 2, 1946 (60

Stat. 812), provides, pertinently, as follows:

No private bill or resolution (including pension bills), . . . authorizing or directing . . . the correction of a military or naval record, shall be received or considered in either the Senate or the House of Representatives.

H. R. 6232 would change the military records of Stephen Swan Ogletree.

Section 207 of the Legislative Reorganization Act, supra, established the Army Board for the Correction of Military Records. That Board was established for the purpose of reviewing military records and recommending to the Secretary of the Army the correction of any such records, where, in the judgment of the Board, such action might be necessary to correct an error or remove an injustice. Upon the recommendation of the Board, the act authorized the Secretary to take corrective action. No application for the correction of the military records of Stephen Swan Ogletree has been received by that Board.

The Congress, by general legislation, has determined that cases of this character should be considered by the Army Board for the Correction of Military Records rather than by the Legislature itself. The affidavits which have been presented in Mr. Ogletree's behalf are entirely consistent with the fact that any service which he may have rendered was prior to the time that the organization was mustered into Federal service. Official records pertaining to the matter show quite clearly that Mr. Ogletree was not at any time during the Spanish-American War in the service of the United States. Under such circumstances, to determine by legislative decree that he rendered any active military service during such war and was honorably discharged therefrom would be entirely discriminatory. There is nothing in law or equity which would justify approval of this bill. To do so would confer upon Mr. Ogletree benefits provided for Spanish-American War veterans to which he is no more entitled than are other individuals who may have been members of local volunteer units prior to the time the unit was mustered into the Federal service, but who were physically disqualified for Federal service and were rejected prior to the mustering-in of the unit. I cannot, in justice, approve this enrolled enactment.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, August 12, 1955.

INTERNAL REVENUE CODE

H. R. 6887. I have withheld my approval from the bill H. R. 6887, "To extend for 1 year the application of section 108 (b) and to amend section 2053 of the Internal Revenue Code of 1954." This bill would extend for 1 year a section of the Revenue Code designed to facilitate certain railroad reorganizations. In addition, it would safeguard certain bequests to charity from the pyramiding effect of State and Federal inheritance and estate taxes.

Federal law properly exempts bequests to charity from estate taxation. In some situations, however, the intent of the Federal law is negated by the imposition of State taxes on charitable be-