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 days 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-

quests. As a result of a provision of Federal law designed to prevent tax avoidance, such State taxes in turn give rise to increased Federal tax liabilities. H. R. 6887 is intended to relieve charitable bequests in these situations to the extent that Federal legislation can do so.

I am sympathetic with the objectives of both portions of the bill. However, I am informed that there are three defects in the part of the bill dealing with the estate tax, which are sufficiently serious to require my disapproval.

First, this legislation would often increase Federal tax liabilities on estates containing bequests to charity.

Second, the legislation would, in certain situations, accrue not to the benefit of charity but to other heirs.

Third, it would disturb existing well-established relationships between Federal and State inheritance and estate tax liabilities based on the credit against Federal tax liability allowed for taxes paid to States since 1926. Since the State tax on the charitable bequest is deductible under the bill, it would no longer be counted in determining the amount which may be claimed by the estate as a credit for State taxes paid against the Federal tax liability. However, the tax imposed under the so-called State pickup laws, which are designed to absorb the full credit allowable against the Federal estate tax, is based upon the total State tax otherwise levied (including the tax on the charitable bequest). Consequently, many State pickup laws would not pick up the full amount allowable as a credit. Enactment of this bill would probably stimulate State legislation to enlarge the credit for taxes paid to States.

In view of these defects in the legislation, I must reluctantly withhold my approval from the bill, H. R. 6887.

My reluctance would be greater, however, had I not been advised that the defects in section 2 of the bill can be remedied and that section 1 and section 2, appropriately remedied, can be enacted so as to apply retroactively without any serious difficulty.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *August 12, 1955.*

RESERVOIR PROPECTS IN TEXAS

H. R. 7195. I have withheld my approval from H. R. 7195, to provide for adjustments in the lands or interests therein acquired for reservoir projects in Texas, by the reconveyance of certain lands or interests therein to the former owners thereof.

The bill would authorize the Secretary of the Army to make adjustments in the land holdings of the United States acquired for five Texas reservoir projects (Belton, Benbrook, Garza-Little Elm, Grapevine, and Whitney Reservoirs) by reconveyance of certain lands to former owners, or the grantee, devisee, or successor in title of a former owner of contiguous property.

The Secretary has no authority to adjust land holdings where title has been acquired by purchase. The bill would provide the Secretary with authority to make such adjustments through reconveyance of lands or interests in lands to former owners at what the Secretary determines to be the original purchase price, adjusted to take into account improvements, damages, or interests retained by the United States.

However, H. R. 7195 goes further and requires the Secretary to determine whether the rights of a grantee, devisee, or successor in title of a former owner of contiguous property are equitably superior to the rights of the former owner himself. The law reports are replete with decisions which disclose the problems with which courts have been confronted in giving just recognition to asserted equitable interests in title to a tract of land. Moreover, in such cases the courts have enjoyed the historic cautionary benefits of the judicial process, such as notice and hearing, rights of intervention, the rules of evidence, and judicial precedents in a particular jurisdiction with respect to the application of equitable principles. The bill does not provide, and the Secretary of the Army does not have, comparable cautionary benefits for an administrative proceeding in which he would be required to engage in the subtle problems involved in weighing justly the equitable superiority or inferiority of the rights, on the one hand of a former owner of a tract, and, on the other hand, of those of the grantee or successor in title to a contiguous tract of property.

This provision would unjustly expose the Secretary to a series of burdensome and time-consuming administrative proceedings which are entirely alien to his statutory responsibilities. It would inevitably subject him to criticism from unsuccessful contestants. These unnecessary burdens and the attendant criticism can, and should, be avoided.

It is my firm opinion that, except for the return of lands or interests directly to the former owners or their heirs in cases of this kind, lands no longer required for project purposes should, if determined to be excess to the needs of the Department, be reported to the General Services Administration for disposal in accordance with general legislation providing for the disposition of excess and surplus Government-owned property. I see no reason for establishing a new and special category of priority holders based on a chain of title from a former owner of contiguous property.

I have approved legislation authorizing similar adjustments by reconveyance of lands to former owners (or their heirs) upon application by them at Demopolis lock and dam, Alabama, and at Jim Woodruff lock and dam, Florida and Georgia, because I am convinced of the soundness of the principle behind the revised reservoir land acquisition policy of the Departments of the Army and the Interior.

I recommend that the Congress reconsider H. R. 7195 and enact a bill along those lines for the five reservoir projects in Texas to which the bill is applicable.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *August 12, 1955.*

On August 14, 1955:

AMENDING DOMESTIC MINERALS PROGRAM EXTENSION ACT

H. R. 6373. I have withheld my approval of H. R. 6373, an act "To amend the Domestic Minerals Program Extension Act of 1953 in order to extend the programs to encourage the discovery, development, and production of certain domestic minerals."

This bill, by congressional action, would direct the continuation of the existing domestic minerals purchase programs under the Defense Production Act for certain minerals after defense needs have been met. Moreover, it would continue such purchases at prices considerably in excess of market price. It would direct the establishment of two new manganese buying depots and the reopening of a third. It would commit an additional $150 million for the purchase of double the original program quantities of these minerals.

Pursuant to the Defense Production Act of 1950, as amended, certain purchase programs were established for these minerals during the Korean hostilities. Public Law 206 of the 83d Congress extended for 2 years the termination dates of these programs. H. R. 6373, in effect, would direct the expansion of these programs so as to require the Government to buy far greater quantities of these minerals than are necessary for defense purposes. As a result, Government assistance to the producers of several minerals will be continued under the guise of defense needs when such needs do not exist.

Furthermore, the fiscal arrangements that are provided for in H. R. 6373 are unsound. The bill would bypass the usual budgetary processes and the customary review by congressional committees. It would direct the use of the defense borrowing authority conferred by the Defense Production Act.

Finally, the provisions of H. R. 6373 would apply to only a small segment of the domestic minerals industry and would not reach the fundamentals of the problem. Indeed this bill would make solution of the overall problems of the industry more difficult.

I am conscious of the desirability of developing a long-range minerals program for the United States to assure an adequate mobilization base and to preserve a sound minerals economy. The Advisory Committee on Minerals Policy so advised and the Office of Minerals Mobilization has been established in the Department of the Interior to determine and recommend such a program. The funds to make the necessary studies have just become available, and work toward the development of a long-range program has begun.

The interests of the domestic minerals industry will be better served by proceeding with the careful development of a long-range minerals program than by approving a stopgap measure extending substantial Government aid to only a segment of the industry. Meanwhile, with the exception of a single manganese depot, the existing domestic minerals procurement program remains uncompleted, and sales by domestic miners to the Government will continue under the provisions of the regulations now in effect.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *August 14, 1955.*