

Case No. 15,263.

UNITED STATES V. GRIFFITH.

[2 Cranch, C. C. 366.]¹

Circuit Court, District of Columbia.

May Term, 1822.

EVIDENCE—CONTRACTOR'S ACCOUNT—AUTHENTICATION—COPIES OF BONDS—HOW CERTIFIED.

1. A contractor's account, adjusted by the proper accounting officers of the treasury, and certified and authenticated according to the 11th section of the act of March 3, 1817, c. 45 [3 Stat. 366], is evidence not only of money advanced to the contractor, but of money disbursed by officers of the army for provisions, in consequence of the contractor's failure to comply with his contract.
2. The third auditor is not authorized to authenticate copies of bonds and other papers.
3. His power under the act of March 3, 1817, extends only to "transcripts from the books and proceedings of the treasury in regard to the accounts of the war department."
4. Copies of bonds must still be certified by the register, and authenticated under the seal of the department, under the act of March 3, 1797 [1 Stat. 512].

Debt for \$60,000, the penalty of the defendant's bond to the United States, conditioned to perform the covenants of an agreement between him and the acting secretary of war, dated November 5, 1817, for the supply of rations to the troops of the United States in certain places; by the 5th article of which, the commanding general or person appointed by him, at each post or place, in case of absolute failure or deficiency in the quantity of provisions contracted to be delivered and issued, has power to supply the deficiency, by purchase, at the risk and on account of the defendant; and by the 10th article, all advances of money to the defendant on account of supplies, &c, and all such sums of money as the commanding officer, &c, may cause to be disbursed in order to procure supplies in consequence of any failure on the part of the defendant in complying with the requisitions therein contained, shall be duly accounted for by him by way of set-off against the amount of such supplies, and the surplus, if any, repaid to the United States, immediately after the expiration of the term of that contract, with interest. The breach assigned was that the defendant [Camillus Griffith] had not accounted for \$120,000 advanced to him for such supplies, and \$50,000 disbursed by the commanding officers in order to procure supplies in consequence of the defendant's failure to comply with the requisitions of the contract. In order to support the issue on the part of the United States,

Mr. Swann, U. S. Dist. Atty., offered in evidence an account between the United States and the defendant, adjusted by the proper accounting officers of the treasury, who reported a balance due to the United States, amounting to \$89,778.41, including \$47,334.81, for amount of payments made by sundry officers for the purchase of provisions in consequence of the defendant's having failed to make the necessary supplies according to his contract

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Mr. Taylor, for defendant, objected that these items of disbursement by the officers, were not sufficiently proved by the account settled at the war department That the account is not evidence of those items, but only of the moneys advanced to the defendant by the United States.

THE COURT stopped Mr. Taylor, and said that the point had been decided by this court at the last term in Washington (see U. S. v. Vanzandt [Case No. 16,611]), to wit, that the account settled at the treasury was evidence; and that the defendant could not give evidence of claims which had not been presented

to the proper officer of the treasury for settlement, and disallowed.

THE COURT (THRUSTON, Circuit Judge, absent), at May term, 1822, decided that the third auditor could not authenticate a copy of the bond; his power of authentication, under the act of March 3, 1817 (3 Stat. 366), extending only to “transcripts from the books and proceedings of the treasury in regard to the accounts of the war department,” and that copies of bond must still be certified by the register, and authenticated under the seal of the department, according to the act of March 3, 1797 (1 Stat 512).

¹ [Reported by Hon. William Cranch, Chief Judge]