Baltimore August 22nd 1795.

Wm. Holmes
John Sticher

And read the same in Evidence to the Jury.

The Defendant then proved to the Court and Jury by Robert Gilmor Junior a witness summoned for and sworn by the Plaintiffs in this cause that the agreement between the Plaintiffs and Defendant to refer to arbitration the said dispute about the Brandy in the said declaration mentioned was effected by a correspondence in writing between the Plaintiffs and Defendant and that several Letters from and to each other passed before the agreement to refer the same was effected; That the letters which passed from the Defendant to the Plaintiffs upon that subject were in the possession of him the witness about ten days ago in Baltimore and that he delivered them over at that time to John Purviance Esquire one of the Counsel for the Plaintiffs now here present in Court; The Defendant then produced and read to the Court and Jury three Letters from the Plaintiffs to the Defendant all of which were admitted to be in the hand writing of one of the Plaintiffs and to refer to the said dispute about the Brandy and the agreement to refer the same, the first Letter dated the 17th of August 1795.

Baltimore 17th August 1795

Mr. Robt. Walsh

Sir

I received your note of this morning and observe the new ground you have taken as a reason for not complying with your Contract. It will answer no good end for me to enter into a discussion with you on the business as it is not probable that I would tend to a settlement of it. You are, as a man of honor and a Merchant bound to abide by your contract, unless you can shew such reasons as will justify a non compliance, those now adduced appear to me totally inadequate to this purpose. There is then but one course left, which is to lay our general pretentions before indifferent men and to abide by their determination. If you agree to this, let two men be named they choosing a third, and let us enter into Bond for abiding by their Award. Let me have an answer as early this morning as convenient, as I want the business terminated without loss of time, that something may be immediately done with the Brandy.

I am Sir your most obt.
Rob. Gilmor

The Second Letter dated the 18th day of August 1795.

Baltimore 18th August 1795

Sir

I received yours of this morning. The Gentlemen who (may)

may be appointed will judge of every circumstance you have to offer as a justification for your refusal to take the Brandy. If they think they are valid, I shall chearfully acquiesce; But on the other hand should they determine that you are bound to take the whole or any part of the Brandy, I cannot doubt for a moment your acquiescence upon the principles of our contract; you voluntarily named Mr. Carroll as the Indorser of your Notes, I could not doubt but he had authorised you so to do, for of his own accord he told me that he would be security for you if you purchased the Brandys, I therefore will not harbour a thought of a refusal of this kind as I think it would be injurious to your honor.

I shall name Col. Smith or Mr. Patterson if you have no objection, or you may choose which you like and name to me two gentlemen and I will choose one of them. For obvious reasons, you will see the necessity of having this business early finished, and I beg you will speak to the Gentlemen you may choose this afternoon, as I shall, provided you inform me you have no objection to those I have named, so that they may go upon it next day. Your answer (for which the bearer will call after Dinner) will oblige

Sir your most obedt.
Rob. Gilmor

Mr. Robert Walsh

The third letter dated the 19th of August 1795.

Baltimore 19th Augt. 1795

Sir

I cannot believe that you will refuse to comply with your own engagement, provided indifferent men say you ought, however you will do in that as you think proper. I have no objection to any of the Gentlemen you have named, and therefore name Col. Sticher, as you have named the whole of them I suppose you can have no objection to Mr. Holmes being the other. If this is agreeable let them be requested to come to day and they may meet on the business tomorrow.

I am Sir your most obedt.
Rob. Gilmor

Mr. Robert Walsh

The Defendant then prayed the Court to direct the Jury that the said paper so produced and by the Plaintiffs read to the Jury was not competent, legal and admissible evidence in this cause and ought not to be regarded by them unless the Plaintiffs did also produce and read to the Jury the Letters of the Defendant to the Plaintiffs upon the subject of the said reference; which bear date on the 18th and 19th of August 1795. But the said objection was overruled by the Court.

To which opinion of the Court the Defendant by his counsel (excepts)