That in consequence of the said order the said Brandy was delivered by the Defendant to Messrs. Yates and Campbell the persons in the said order named. The Defendant having offered to subjoin the above statement of the Evidence admitted to have been given in this cause to the statement of facts made by the Plaintiffs as the foundation of their prayer for the opinion of the Court given in the preceeding Bill of Exceptions taken in this cause. The Court refused to have the same added on the ground that the same had no relation to the subject matter by the said prayer submitted for the consideration of the Court;

To which refusal of the Court the Defendant by his Counsel excepts and prays the Court to sign and seal this his Bill of Exceptions according to the Statute &c which is accordingly done, this 25th day of October 1803.

Rd Spriggs [Seal]

Robert Gilmor and William Bingham against Robert Walsh

Case

In the Trial of this cause the Plaintiffs to support the issue on their part gave in Evidence to the Jury two letters the one from the Plaintiffs to the Defendant, the other from the Defendant to the Plaintiffs

Mr. Robt. Walsh

Baltimore 27th July 1795

Sir

Agreable to our promise, we now conclude on selling you whatever Brandy we may have on Board the Ann from Bordeaux upon the terms you proposed, that is, You are to pay us at the rate of one dollar and fifty cents P Gallon for the whole, which we estimate at ab. 90 Pipes (exclusive of some old Cognac we have on board which is not meant to be sold) whatever the proof may be, provided the Ship arrives in six weeks from this time, on the delivery of the Brandy you are to give us your & Mr. Carrens Notes for the whole at three and four months from the commencement of the delivery your agreeing to the preceeding terms will be binding on

Sir Your Most Obt.

Rob. Gilmor & Co

Gentlemen

I agree to purchase from you, whatever Brandy you may have on board the Ann from Bordeaux supposing the quantity 90 Pipes or thereabouts, at the rate of one dollar and fifty cents P Gallon whatever the proof may be, provided it arrives here in six weeks from this date. I agree also to give you my note with John Carrens as Security, for mine and John Carrens notes, payable at three and four months for the

amount of the said Brandy, the date of the Notes to commence from the delivery of the said Brandy.

I am Gentlemen respectfully your obed. Servant

Messrs. Robert Gilmor & Co. Robert Walsh

Baltimore 27th July 1795

And also gave in Evidence that the said Ship Ann with 13025 Gallons equal to 124 pipes of Brandy arrived at the port of Baltimore within six weeks after the said agreement in the absence of the Defendant to wit, on the first day of August 1795 and that the Plaintiffs sent the whole of the Brandy to the Warehouse of the Defendant on the 8th day of August 1795 where the Clerk of the Defendant received the same under the orders and directions of the Defendant by him given to his said Clerk before the arrival of the said Brandy at Baltimore, that the Defendant on the 17th of August 1795 wrote to the Plaintiffs the following Letter

Gentlemen

When I agreed to purchase the Brandy which you should receive by the Ship Ann, at the rate of one dollar and fifty cents P Gallon, it was intended by Mr. Gilmor and myself that it should be of the quality generally received from Bourdeaux and called Bourdeaux Brandy; that the quantity was about ninety pipes; and under an assurance from Mr. Gilmor, that no more Brandy would arrive in the Ship, but that which was consigned to your House, to wit, the Ninety pipes, and a small quantity of old Cognac, which Mr. Gilmor had ordered for his own use, and the use of two other friends. I therefore calculated, that the amount, in money, of the purchase would be from fourteen to fifteen thousand Dollars, counting the Gauge of the Bourdeaux pipes, as usual, not more than one hundred to one hundred and ten Gallons, and had prepared an Indorser for my note accordingly. Being in Philadelphia when the Ann arrived and the Brandy landed, it was received in my Warehouse, on my return home, two or three days after it was landed, and on examining it, I found the quality not Bourdeaux Brandy the quantity about one half more than was expected; and about fifty pipes of Brandy offered for sale in the Town, in other hands, which were imported in the Ann; I therefore inform you that I do not hold myself bound to the purchase, because, the quality is not Bourdeaux Brandy, the quantity is much more than I counted upon, and because a considerable quantity has been imported in the Ship, and put into the Market, since that received