or not and that he the Witness does not recollect whether the Defendant did or did not agree to submit to the Arbitrators whether he the Defendant should give to the Plaintiffs an Indorser for the price of the said Brandy in case he should be adjudged by the Arbitrators to take the same or any part thereof, that the Letter from the Defendant to the Plaintiffs above stated on the 27th July 1795 was the paper upon which the Arbitrators acted, and that having determined that the Defendant should keep Ninety Pipes or Ten thousand Gallons of the said Brandy the Arbitrators determined that he ought to give an Indorser it being so provided for by said Contract. And thereupon the Counsel for the plaintiffs prayed the direction and opinion of the Court to the Jury, that if they believed such Evidence that then such Evidence is sufficient in point of Law to support the first count in the Plaintiffs declaration. But the Court having already determined "that the terms and stipulations between the parties on which their matters in dispute were to be submitted to reference are matters of fact to be determined by the Jury" and the validity of the award thus depending on the opinion of the Jury, refused to give the direction as prayed. To which opinion and refusal of the Court the Plaintiffs by their Counsel except and pray the Court to sign and seal this their Bill of Exceptions according to the form of the Statute in such case made and provided and which is accordingly done this twenty fifth day of October in the year of our Lord one thousand eight hundred and three.

Rd. Sprigg (Seal)

Robert Gilmor and William Bingham against Robert Walsh

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. Robert Walsh

Baltimore 27th July 1795

Sir

Agreeable 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 ℔ Gallon for the whole, which we estimate at ab.t 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. Jn. Carries notes for the whole

at three and four months from the commencement of the delivery. Your agreeing to the preceding 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 ℔ 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 Carrie as Security, to mine and John Carries 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 obt. Servant

Robert Walsh

Messrs. Robert Gilmor & Co.

Baltimore 27th July 1795.

And also gave in Evidence that the said Ship Ann with 13626 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 1st day of August 1795 and that the Plaintiffs sent the whole of the said Brandy to the Warehouse of the Defendant on the 6th of August 1795 when 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 in Baltimore, that the said 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 ℔ Gallon it was intended by Mr. Gilmor and myself that it should be of the quality formerly 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 and ten Gallons, and had prepared an Indorser for my note accordingly. Being in Philadelphia when the Ship arrived and the Brandy landed, it was received in my Warehouse