State vs Dula } Brief of State's counsel.

First - } as to the motion in arrest of Judgement because "North Carolina" is not found in the body of the Indictment.

State vs Harry Lane 4 Ired 113.

2nd as to the declaration of deceased to Betsey Scott "that she was on her way to the Bates place"

State insists this declaration was withdrawn as appears by the case & next that it is competent testimony — upon the principle that whenever an act becomes material in [illegible] a trial, any declaration accompanying the act or Explanatory of it — is a part of the act itself & is thus original testimony.

Wetmore vs Mell 1 Ohio p 26

1 Philips Ev. p 194. & 195

3rd Acts & Declarations ~~Declarations & acts~~ of Anne Melton, after the common design was shown to the satisfaction of Court & by facts established by Evidence — where competency is not Excepted to — said acts & declarations being in furtherance of the common design.

Wharton's Criminal Law. Sec 702.

1 Greenleaf on Evidence Sectns 108 to 112.

State vs Harry - 2 Dev & Bat 390

State vs George 7 Ired 326

State vs Soper 16 Maine 296

18 Wendall 360