The law requires all testimony which is given to the jury, to be subjected to two tests of its truth. 1st it must have the sanction of an oath, 2d ~~the person~~ There must be an opportunity of cross examination. - dying declarations form an exception - & another exception is allowed, when declarations constitute a part of the act. - or res gestae: acts frequently consist not only of an action or thing being done, but of words, showing the nature & quantity of the thing; in such cases, when the action or thing being done is offered in evidence as a matter of course, the words which form a part of it must also be received in evidence. as, if one seizes another by the arm, saying "I arrest you under a Stalyvarrant" - these words are just as much a part of the act done, as the action of taking him by the arm. - &c

In our case, the conversation between Wrscott & the deceased, altho it occurred at the time of the action or thing being done - to wit, her being in the road on her father's man have taken - cannot in any point of view be considered a part of the act, it was entirely accidental, & consisted ~~but were~~ simply of answers to