inquiries which the curiosity of Mr. Scott induced her to make B. - These answers, may have been true or they may have been false: but they were not verified by "the tests" which the law of evidence requires & it was error to admit them as evidence against the person. -

As the case must go back for another trial we do not feel at liberty to enter into an * expression of opinion in regard to the other matters of exception - But we see from the case such that his honor fell into the error, for which a verse de novo is awarded at this term in State of Andrew that is, without stating distinctly how he decided the facts, preliminary to the admissability of the acts & declarations of Ann Mellon in furtherance of a common purpose to murder the deceased, upon the evidence offered to the court to establish these preliminary facts; he allows the evidence to go to the jury, & instructs the jury that, if they are not satisfied of the existence of a conspiracy between the persons & Ann Mellon to effect the murder of the deceased. These