to tell him if his sister Eliza was there but to tread on his toes or to pinch him & tell him mother wanted to see him the girl went down & did not find him he afterwards came & he & Ann Mutton had a private conversation & each went off in opposite directions It was in evidence that Ann Mutton did not return home on Thursday night but that she came home on friday morning before day with her dress & shoes wet. She remained in bed the greater part of the day on friday. There was evidence that Ann Mutton & the prisoner had been on most intimate terms for a number of years & that an adulterous intercourse had been kept up between them & that he visited the house daily It was also in evidence that Ann Mutton had a sore mouth & that she had taken medicine for it previous to the death of Laura Foster It was further proved that Thomas Dula came to Ann Mutton's house on Thursday morning & said that he had met Ann Mutton on the ridge not far from the house, shortly before that time & that she told him where to get some allum & a canteen upon this testimony it was insisted on the part of the State, that there was sufficient evidence of an agreement between the prisoner & Ann Mutton to commit the alledged homicide to authorize the declarations admissions & acts of hers in furtherance of said agreement, to be given in evidence The hypothesis on the part of the State was that the grave was dug on Thursday or Thursday night That the deceased was killed on friday or friday night, that the motive for the perpetration of the murder was the resentment caused by the fact that the prisoner had caught a disgusting venereal disease from the deceased & had communicated it to his paramour Ann Mutton The State offered to prove declarations admissions &c of Ann Mutton, this testimony was objected to by the prisoner, but the Court being of opinion that the evidence stated above, which was testified to by various witness's was true & that it established an